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SESSION 1928

HOUSE OF COMMONS

SELECT STANDING COMMITTEE

ON

PRIVILEGES AND ELECTIONS

EVIDENCE AND REPORT

In respect to the Commissioner's Reports
on the alleged existence of corrupt or illegal
practices in the election held in the electoral
district of Athabaska, in the Province of
Alberta, on the 29th of October, 1925



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SECOND AND FINAL REPORT

HOUSE OF COMMONS,

FRIDAY, June 1, 1928.

The Select Standing Committee on Privileges and Elections beg leave to present the following as their Second and Final Report:—

(1) On the 29th of March, 1928, the House adopted the following resolution:

That the Interim and Final Reports respectively of the Hon. Mr. Justice Clarke, Commissioner appointed to inquire into the alleged existence of corrupt or illegal practices in the election held in the electoral district of Athabaska, in the Province of Alberta, on the 29th of October, 1925, which reports were laid on the table of the House on December 15, 1926, be referred to the Select Standing Committee on Privileges and Elections.

(2) Your Committee have held ten meetings and examined several witnesses including the following: Jules Castonguay, Chief Electoral Officer; George Gonthier, Auditor General; E. J. Lemaire, Clerk of the Privy Council; W. Stuart Edwards, Deputy Minister of Justice.

(3) In the course of their deliberations your Committee have examined in detail the said reports of Commissioner Clarke and the evidence taken before him.

(4) Your Committee is of the opinion that the cause of corrupt and illegal practices in the election held in the Federal Constituency of Athabaska in 1925 was the partizanship, ignorance and incompetence of certain election officials and your Committee recommend that the Auditor General should submit to the Justice Department a full statement of the payments made to the aforesaid officials with a view to instituting proceedings for the recovery of the amounts so paid to such officials if the law provides for such action.

(5) Your Committee is further of the opinion that the Chief Electoral Officer should recommend to the proper authorities that prosecutions should be taken against all violators of the Dominion Elections Act.

(6) The Committee recommend that a Special Committee of the House should be appointed at the next session of Parliament to examine into the evidence and deliberations of this Committee this year and to study the Dominion Elections Act 1920 and the amendments thereto, and the Corrupt Practices Inquiries Act, and to suggest to the House such other amendments to the said Acts as they may deem advisable, such Committee to give special attention to the method of selecting returning officers and the preparation of voters' lists.

(7) The Committee is also of the opinion that under the circumstances the deposit of Charles Henry Gauvreau, one of the candidates at the election of the 29th of October, 1925, in the Electoral District of Athabaska, should be refunded.

(8) Your Committee submit herewith for the information of the House their Minutes of Proceedings and the evidence taken by them.

All of which is respectfully submitted.

J. J. DENIS,

Chairman.

SECOND AND FINAL REPORT

House of Commons

1962, June 1, 1962

The Select Committee on Privileges and Elections has been in receipt of the following evidence:

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All of which is respectfully submitted

A. J. DIXON

Chairman

MINUTES OF EVIDENCE

COMMITTEE ROOM No. 424,

HOUSE OF COMMONS,

TUESDAY, May 15, 1928.

The Select Standing Committee on Privileges and Elections met at 11 o'clock a.m., the Chairman, Mr. J. J. Denis (Joliette), presiding.

The CHAIRMAN: I have to inform the members of the Committee that the supplementary evidence has been received since our last meeting, so that the whole evidence is now at the disposal of the Committee.

It was moved by Mr. Kellner, the other day, that the Chief Electoral Officer should be called to give evidence before the Committee and also to produce certified statements from the election officers. Mr. Castonguay, Chief Electoral Officer, is now here.

Mr. KELLNER: You have the statement now, Mr. Chairman?

The CHAIRMAN: Have you seen it?

Mr. KELLNER: No, I have not.

The CHAIRMAN: Do you wish to examine the Chief Electoral Officer, Mr. Kellner?

Mr. KELLNER: Yes, I would like to.

JULES CASTONGUAY, called and sworn.

By Mr. Kennedy:

Q. Mr. Castonguay, you are the Chief Electoral Officer?—A. Yes.

Q. How long have you been in that position?—A. Since the first of July, 1927.

Q. Before that were you associated with the previous Chief Electoral Officer?—A. I held the position of Assistant Chief Electoral Officer from the first of July, 1920, until my assumption of Chief Electoral Officer in 1927.

Q. What was your position from the time the writs were issued in connection with the 1925 federal election?—A. Assistant Chief Electoral Officer.

Hon. Mr. LAPOINTE: A little louder, please. I cannot hear either the question or answer.

By Mr. Kennedy:

Q. You are familiar with the whole procedure of the conduct of federal elections?—A. Well, I have been employed in that connection for the last twenty years.

Q. Therefore, you are in a position to explain to us the various details in so far as the administration in connection with a federal election is concerned, such as the appointment of officials and the discipline and instruction and otherwise of officials in connection with the conduct of an election?—A. Generally, yes.

Q. Have you read the report of the Hon. Mr. Justice Clarke, the Commissioner appointed to inquire into alleged corrupt and illegal practices in the constituency of Athabaska during the election of 1925?—A. I remember reading part of it, yes.

[Mr. Jules Castonguay.]

Q. Will you tell us, Mr. Castonguay, just what your responsibility is as Chief Electoral Officer in connection with the conduct of an election in a constituency? Take for instance the constituency of Athabaska, what responsibility is saddled upon you as Chief Electoral Officer by the Dominion Elections Act?—A. Well, the whole thing comes from the new Section 18. That is in the new Act. 19 of the Old Act of the Revised Statutes.

Q. That is on page 107, Chief Electoral Officer, 137 in the Old Act. Page 107 in the book distributed to-day?—A. Yes, it is Section 18, subsection 2 (a).

Throughout every election properly direct all returning officers and, in case of incompetency or neglect of duty on the part of any of them, recommend his removal and the appointment of another in his stead;

(b) Exercise general direction and supervision over the administrative conduct of elections with a view to ensuring the fairness and impartiality of all election officers and compliance with the provisions of this Act.

Q. There is also subsection 2 (c) I think?—A. Yes.

Q. In a general way these sections saddle you with the responsibility of seeing that an election is conducted by a returning officer who is competent and does not neglect his duty. Is that a reasonable interpretation of that section?—A. Yes. When an incompetent returning officer is brought to our attention, these provisions give authority to remove him.

Q. It is not your duty then, as you see it, to check up a returning officer unless someone calls his conduct of the election to your attention?—A. Well, of course there are 241 returning officers throughout Canada and it is a physical impossibility to be able to check them all up from Ottawa here.

Q. What would you include, for instance, in a general way in the term "incompetent"? What would be the general meaning of that term "incompetent"?

The CHAIRMAN: I think, Mr. Kennedy, the law speaks for itself. Whatever Mr. Castonguay might say on that would not alter the meaning of the section.

Mr. KENNEDY: I do not think the law does speak on that. It says: "incompetency." However, I will put it in this way. We have here about forty pages of instructions in connection with elections; instructions to returning officers, from page 5 to page 30.

By Mr. Kennedy:

Q. Would it be necessary for a returning officer to be able to digest those instructions in order to be included amongst competent returning officers?—A. A returning officer, to my mind, should be able to understand them.

Q. To understand these election instructions?—A. To understand them at least.

Q. Then clause (b) which you have quoted, Mr. Castonguay, says that you shall exercise general direction and supervision over the administrative conduct of elections with a view to ensuring the fairness and impartiality of all election officers and compliance with the provisions of this Act. If you found that a returning officer was not fair and impartial, would it be the duty of the Chief Electoral Officer to recommend his removal?—A. Certainly.

Q. The Act states, "fairness and impartiality of all election officers"; does that mean fairness as between the various candidates, in your judgment?—A. Well, of course, "fairness" is a broad word. You could spread it out at will almost.

[Mr. Jules Castonguay.]

By Hon. Mr. Lapointe:

Q. It would certainly include what Mr. Kennedy suggests?—A. Yes, it does include what Mr. Kennedy suggests.

Mr. JACOBS: I suppose he may take Shakespeare's words: "If he is fair to himself he cannot be unfair to anyone."

By Mr. Kennedy:

Q. Your power is simply to recommend his removal. To whom would you make the recommendation?—A. To the Governor-in-Council.

Q. Have you anything to do with the appointment?—A. The appointment of the Returning Officer?

Q. Yes.—A. Well, Section 21 deals with that. The returning officers are appointed under Section 21.

Q. Will you be good enough to give the Committee a brief statement of how these election officials are appointed and who is responsible for them under that section?—A. Under section 21 the returning officers are appointed by the Governor in Council upon the recommendation of the Secretary of State.

Q. The Secretary of State lives in Ottawa, does he not?—A. Yes.

Q. Would it be any more possible for the Secretary of State to have a knowledge of all the returning officers throughout the country, than for you?—A. Well, he travels more than I do.

Q. I am trying to get at the system of how this thing is done. As a matter of fact, do you know whether or not recommendations are made and accepted under the system, by friends of the party in power?—A. I have been in the office twenty years and I have not seen any recommendations yet, and I do not know anything about them.

Q. And the distance you are prepared to go is that you go back to the Secretary of State?—A. Well, we get the lists of returning officers. We get an Order in Council containing a list of the returning officers.

Q. From whom?—A. From the Clerk of the Privy Council.

Q. Your authority then goes just so far, when you find a returning officer is incompetent under Section A of Subsection 2, or Subsections A and B, to recommend his removal in case of incompetency?—A. There is also Section 75 that empowers the Chief Electoral Officer to make a report to the House of Commons.

Q. That is after the election?—A. Yes, after the election.

Q. But in so far as the conduct of an election is concerned, you do not appoint the returning officer, as I understand it? Your power so far as appointment is concerned is contained in Section 18, subsection 2 (a) (b), in case of incompetency and neglect of duty on the part of any returning officer, to recommend his removal and the appointment of another in his stead?—A. Yes, that is what we are limited to.

Q. Now, I would like you to look at page 9 of Mr. Justice Clarke's report, and to read that. There is a little more than half a page there, and then I will ask you a few questions about it.

Mr. MACDONALD (Cape Breton South): Would you ask him to whom he makes the recommendation?

Mr. KENNEDY: You can ask him that.

The WITNESS: You asked me to read half a page?

Mr. KENNEDY: You might as well read to the bottom of page 9, as to poll No. 169.

By Mr. MacDonald (Cape Breton South):

Q. I wanted to ask if any recommendation had ever been made for the dismissal of a returning officer?—A. Not in the case of Athabaska.

Q. In any case has it ever been made?—A. Yes, it has been made.

Q. To whom did you make the recommendation?—A. We made the recommendation to the Secretary of State.

Q. That is the authority you have to go to?—A. Yes.

By Mr. Kennedy:

Q. And the subsequent appointment is made on the recommendation of whom?—A. The Secretary of State.

Q. Is it on your recommendation?—A. No. He submits his recommendation with a supplementary order made under the Secretary of State and we have nothing to do with that.

Q. If you will look at Section 18, of the Dominion Elections Act, Subsection 2 (a) ; I would like to ask you another question on the last two lines there:—

In case of incompetency or neglect of duty on the part of any of them, recommend his removal and the appointment of another in his stead.

When you recommend that a certain official be removed, you merely ask that another be appointed in his stead, without stating who the other shall be?—A. Yes, without stating who the other shall be.

Q. It still rests with the Secretary of State?—A. It still rests with the Governor in Council.

By Hon. Mr. Lapointe:

Q. It would have to be done under Section 21?—A. The new appointment would not have to be made under Section 21.

By Mr. Kennedy:

Q. Could you tell us, Mr. Castonguay, how many returning officers you know of have been discharged as a result of the recommendation of the Chief Electoral Officer, of yourself, for instance?—A. These provisions were inaugurated in 1920. They did not exist before that. Sections 19 and 20 as to the Chief Electoral Officer did not exist before 1920. Since 1920 there were, as far as I can remember, only one recommendation made for the removal of a returning officer. We were going to make another one in 1925, but the returning officer resigned before we made the recommendation.

Q. Now, I come to this Lac La Biche Poll, No. 169.

By Hon. Mr. Lapointe:

Q. Before you read that, may I ask this question: how did you find out about the one that was dismissed? Did you receive any complaint about his work?—A. We received complaints that he had used undue influence in the registration of votes. If I may be permitted, I will tell you exactly what happened. In cities it is not like the rural polls. The registration must be personal. If a man wants to be entered on the lists he must make personal application. This particular returning officer took the pay lists of a company and went to the Registrar and said: "here are two thousand names, put them on the list." The Registrar said, "I want their personal appearance." The returning officer tried to force the hand of the Registrar. These facts were reported to us and we were on the verge of asking the returning officer to resign when he resigned.

[Mr. Jules Castonguay.]

Q. That is the one who resigned. Did you speak of another who was dismissed?—A. No, another one was reported, but the matter was eventually patched up. He did not have to be changed.

By Mr. Kellner:

Q. Your statement is not very clear on that. Did he put those names on the list?—A. No. There were no names put on the list. He was trying to force the hand of the Registrar.

Q. Why did you discharge the Registrar?—A. The Registrar did not do it.

Q. He should not do it?—A. No.

Q. Why did you discharge him?—A. No, we did not. It was the returning officer we were after.

By Mr. Kennedy:

Q. Did I understand you to say that he actually resigned?—A. Yes, he resigned.

Q. I thought you said something about the matter being patched up?—A. That was another case.

Q. Now, turning to page 9, of Mr. Justice Clarke's report, which you have there, you will notice that it states certain things regarding this returning officer, Isaac Gagnon?—A. Yes.

Q. We find it stated here, "The evidence points to the conclusion that the poll book was destroyed by Isaac Gagnon, the returning officer—since deceased—after the return of the ballot box and papers to him, in order to prevent discovery of the fraud perpetrated at that poll." It states in the second paragraph from there: "I find that the returning officer, Isaac Gagnon, and William A. Deyl, who was assisting him, abetted the commission of the offences of marking and depositing in the ballot box false ballots. In the next paragraph it is said, "I find that Simoneau, Fisher and Hamel, as well as Gagnon and Deyl, were guilty of forgery of the poll book and of the said 16 ballots as all did acts which aided in the commission of that offence or abetted therein." "I find that the said five persons were guilty of violating paragraphs (a), (c) and (g) of Section 51 of the Dominion Elections Act." That is the five persons including Gagnon. Now, in view of that statement, Mr. Castonguay, it would not be possible to argue that this election was carried on impartially and in a competent manner, would it?

The CHAIRMAN: I do not think that that is a relevant question at all, Mr. Kennedy. It is not admissible to ask Mr. Castonguay to pass his judgment upon the findings of Mr. Justice Clarke, or Commissioner Clarke. The question you are asking Mr. Castonguay to answer, was put to Mr. Justice Clarke; he was sent to enquire and find out whether or not corrupt practices had been resorted to in that election and he has made his report.

Mr. KENNEDY: What is the report on that finding?

The CHAIRMAN: You have it here on page 9. Now, you are asking Mr. Castonguay to pass judgment on the findings of Mr. Justice Clarke.

Mr. JACOBS: He is being asked whether he concurred.

Mr. KENNEDY: Mr. Justice Clarke states that corrupt practices have extensively prevailed. If you rule my question out, Mr. Chairman, I will try to put it in such a form that we can get the information I wish. I think it is not a matter that reflects on anyone. I think the Chief Electoral Officer, surely if he is saddled with the responsibility of carrying on elections impartially should be able to answer that question.

Hon. Mr. LAPOINTE: What is the question?

The CHAIRMAN: State your question again, please.

[Mr. Jules Castonguay.]

By Mr. Kennedy:

Q. My question is: in view of the statements Mr. Justice Clarke has made in this report, that the returning officer in Athabaska was guilty of destroying the poll book in order to conceal frauds at the Lac La Biche Poll and that he abetted the commission of offences such as depositing in the ballot box false ballots; he was also guilty of forgery, and that he was guilty of violating Sections (a), (b) and (c) of Section 51 of the Dominion Elections Act. I will read those if necessary?

The CHAIRMAN: No, it is not necessary.

By Mr. Kennedy:

Q. In view of that, you can hardly say that the returning officer conducted the election impartially and in a competent manner?—A. It is very obvious.

Q. Obvious that he did not?—A. That he did not.

Q. Now, what I am anxious to get, Mr. Castonguay, is this: where is the weakness in our system that puts on you the responsibility of seeing that an election is run fairly and in a competent manner, and at the same time saddles you with co-operation, if you like, in the attempt to attain that end with a returning officer of this kind?—A. You want to know what my opinion is on that question?

Q. Yes, if you have any opinion at all in regard to it.—A. To my mind the whole thing hinges on the appointment of the returning officer. If the returning officers were chosen from amongst provincial officers, such as sheriffs and registrars, that to my mind would be a safeguard against the repetition of these happenings in Athabaska. We have had provincial officers acting as returning officers in several elections, and their work was always number one.

By Hon. Mr. Lapointe:

Q. Do you mean registrars?—A. Provincial officers such as sheriffs or registrars, or their deputies; people employed permanently in those capacities.

By Mr. Jacobs:

Q. Why provincial government officers? Are they of a superior type to federal officers?—A. There are no federal sheriffs. You would find difficulty in obtaining a sufficient number of federal officers throughout the different federal districts, but I think you could find enough provincial officers to act in every district.

By Hon. Mr. Lapointe:

Q. I know in Quebec you could, but I am told that in Mr. Kennedy's province you could not. For instance, how many Registrars of Deeds have you in the province? You have not one in every district?

Mr. KENNEDY: No, I think not.

Hon. Mr. LAPOINTE: Have you a sheriff in every County?

Mr. KENNEDY: Yes.

Hon. Mr. LAPOINTE: In every constituency?

Mr. KENNEDY: Yes, there are two or three in my constituency.

Mr. JACOBS: Then you must have three counties because there is only one sheriff for one county.

Hon. Mr. LAPOINTE: I am told there is a sheriff for each district and that a district may include more than one county.

Mr. JOHNSTON: That is so in the province of Saskatchewan.

[Mr. Jules Castonguay.]

Hon. Mr. KING (Kootenay East): In British Columbia we have not a sheriff in every county.

The WITNESS: But there is a Registrar of Voters for every provincial county.

By Mr. Kennedy:

Q. What is the weakness of the present system?—A. To my mind it would be very hard to improve upon the machinery. You have a penalty for every corrupt practice committed by an election officer. I do not think that it would be advisable to enlarge the number of election officers. I think it is extensive enough as it is. I repeat that if you had provincial officers appointed permanently as Dominion Returning Officers, and leave the choice of Deputy Returning Officer and Registrar in their own hands, and let them appoint whoever they think is best suited for the position, I think it would be a guarantee that corrupt practices of this kind would not be repeated.

By Mr. Hanson:

Q. Mr. Castonguay, is it usual to appoint by the sheriff?—A. Well, sometimes they are appointed by the sheriff and sometimes they are not.

Mr. HANSON: In New Brunswick they are always appointed by the sheriff.

Hon. Mr. LAPOINTE: In Quebec they are selected by the Registrar or the Clerk of the Court. In the cities I do not see how you could find an officer in the classes you suggest.

The WITNESS: If you want a suggestion for the Statute I might make one.

By Mr. Lapointe:

Q. What would it be?—A. Take Montreal; supposing there are twelve or fourteen seats. It would be for the parties to get together and agree on some man and appoint him returning officer. That is the different political parties.

Mr. JACOBS: Could they not get together and appoint judges and Senators as well, or even members of Parliament?

By Mr. Kennedy:

Q. What happens now?—A. Well, I told you a few minutes ago how they are appointed. I do not know the details of the organizations.

Mr. HANSON: The practice is for the Government in power to present its candidates.

Mr. MACDONALD (Cape Breton South): As I understand it, the Electoral Officer ascertains from some responsible party, usually the sheriff.

The WITNESS: A provincial officer such as the Registrar of Deeds, or the Deputy Registrar might be appointed.

Mr. JACOBS: You admitted that only two cases had been brought to your attention since 1920. We have had three elections since 1920 and there were six or seven hundred returning officers, and you said that one case was patched up, and in the other the officers were dismissed. That is a pretty good average.

The WITNESS: Those were cases that were brought to our attention in time for us to take action. There were other complaints made after the election, when the time for action had passed.

By Mr. Jacobs:

Q. Were those investigated?—A. Yes, those cases were investigated. Nothing very serious was found.

Q. So that do you think, under these circumstances, that the whole system should be reconstructed because there was a rotten election in Athabaska?—A. Well, to my mind it would ensure that a repetition of that thing would not happen.

[Mr. Jules Castonguay.]

Mr. HANSON: It might be suggested that a County Court Judge be appointed a returning officer.

Mr. JACOBS: He would want an increase in salary at once.

Hon. Mr. MARCIL: My experience in eight general elections in my constituency is that the Registrar always acted as returning officer, except when we were out of office, when he was put aside and another person appointed. But when the Registrars acted, they were always found competent.

Mr. MACDONALD (Cape Breton South): The Registrar of Deeds in my constituency covers three different counties.

Hon. Mr. MARCIL: I understand Mr. Castonguay to say it would be more satisfactory to have permanent provincial officers appointed who are conversant with this particular kind of work.

By Mr. Beaubien:

Q. Was not the Act amended three years ago, Mr. Castonguay?—A. Yes, they were made permanent and they held their position during pleasure.

By Mr. Lapointe:

Q. What is the present position? Are those returning officers who acted at the last general election still in office?—A. They are still in office, yes, sir. They remain in office during the pleasure of the Governor-in-Council.

Q. So that all the returning officers that were appointed at the general election of 1926, I understand are still in office?—A. Yes, under Section 21.

By Mr. Kennedy:

Q. When did the reports of irregularities in the Athabaska constituency in 1925 first reach your office?—A. The first report we got through the press sometime after the election. And then we received a request for the production of some papers. That is the first report we had.

Q. Could you give us the date of this?—A. I brought them for you. On December 9th, Mr. Justice Walsh ordered the production of several returns. Do you want me to quote the polls?

By Mr. Kellner:

Q. Yes, I do.

By Mr. Kennedy:

Q. All right, quote them.—A. Venice, No. 153; Waterways, No. 95; Own River, No. 167; Philomena, No. 88; Margu, No. 230; Conklin, No. 89; Chaplin, No. 229; Quigley, No. 90; Cheecham, No. 93; Len Arthur, No. 94; Lac La Biche, Nos. 168 and 169; Boyle Road, No. 84A; Frog Lake, Poll No. 172; Marie Lake, No. 212; Parenteau, No. 214; Fishing Lake, Poll No. 215; Reits Lake, No. 220; Plamondon, No. 164; Martin Centre, No. 71; and Pinehurst, No. 19.

When these papers reached Edmonton it was found that the poll book for polling station No. 169 was missing. We wired the returning officer to locate the poll book and he wired back that he was unable to locate it although he had made all possible search for it.

On the 8th of February, 1926, we received an order from Mr. Justice Tweedie calling for the envelopes containing the returns from the following polling stations: East Wabasca No. 11; Sandy Lake No. 11A; West Wabasca No. 12; Pelican No. 91; Cushing No. 218; Bates poll No. 222; Prairie Lake No. 223. Sturgeonville No. 15; St. Amelia No. 18; and Cold Lake, No. 212A and Cold Lake No. 212A2.

[Mr. Jules Castonguay.]

By Mr. Kellner:

Q. What is the date of that list?—A. February eighth. Then on May 29, 1926, in compliance with an order of Mr. Justice Betts the balance of the election papers for the whole district was sent to Edmonton.

By Mr. Kennedy:

Q. When was your report made to the House of Commons regarding that election, or the report of the Chief Electoral Officer?—A. I cannot say exactly what date it was, but our report was made on the first few days of the session.

Q. Previous to that time, did you have a considerable knowledge of the irregularities in Athabaska?—A. After the general election of 1925, I do not remember exactly when the session was held.

Q. It was about the 10th of December.—A. The 10th of December? Of course, before answering that question, I would like to look up the file.

Q. Do you know if any reference to the irregularities in Athabaska was made in your report to the Speaker, or to the House of Commons through the Speaker?—A. I could not say. I do not think there was. I do not remember off-hand whether there was anything in the report to the Speaker about Athabaska.

Q. Will you be good enough to get that for us at some future day?—A. Yes, sir.

By Mr. Kellner:

Q. Mr. Castonguay, did you ever live in Western Canada?—A. No, sir.

Q. You do not know anything about the districts out there at all?—A. I went through Western Canada once. That is about all.

Q. Mr. Biggar did live there?—A. I think he lived in Edmonton for a while.

Q. What was he doing there?—A. He was practising law.

Q. Who was his partner there?—A. I do not remember.

Q. You never heard of the firm?—A. No. I heard about the firm, but I do not remember it.

Q. Do you think he had definite knowledge of the constituency of Athabaska?—A. Of course, in 1925 Athabaska was a new district. It had never existed before.

Q. The boundaries had changed but the district was the same as it always was.—A. Well, before that it was all in East Edmonton.

Q. Did you ever hear Mr. Biggar say whether he knew Mr. Gagnon or not, the Returning Officer?—A. No.

Q. You never heard him say anything about him?—A. No, I don't remember it.

Q. Where is Mr. Biggar at the present time?—A. I understand he is over in England.

Q. When did he leave?—A. Some three or four weeks ago.

Q. Have you any idea when he is coming back?—A. No, I have not.

Q. I understand it is the departmental procedure for your Department to authorize the payment of these election officials? Is that right?—A. The Act says that all the payments in connection with the elections accounts shall be passed and paid by the Auditor General.

Q. Would he pay them without you passing on them?—A. The only thing that we have to do with them is to prepare a schedule of fees.

Q. When the returning officer sends in an account for the officers in that constituency do you o.k. those accounts?—A. We very seldom see those accounts. They are sent direct to the Auditor General and paid in that office.

Q. Do you recall whether or not you saw them in the case of Athabaska in 1925?—A. I do not recall—no, I am sure they did not come in our office.

Q. Are you quite sure of that?—A. Yes, I am quite sure.

Q. I am a little afraid that your memory is not good on that. Mr. Castonguay. I will find that just in a moment. Your recollection is that the Auditor General's Department was never notified by your Department to withhold the payment of some of those election officers?—A. I did not catch that.

Q. I say your recollection is that the Auditor General's Department was never told to withhold the payments by your Department?—A. Oh, that is not what you were asking me a minute ago. You were asking me whether we had to receive those accounts; whether we had to handle those accounts. I said, no.

Q. Did you also say you had not handled the 1925 election accounts?—A. We might have told the Auditor General to withhold the accounts; but as far as the handling of the accounts and receiving of the accounts, I repeat that I am sure they did not come to our office.

Q. In your opinion, should these election officials have been paid?—A. Of course, in some cases I know they should not, but when the payments were made there was nothing to indicate what had taken place in that district.

Q. I call your attention to Sessional Papers No. 176. That paper shows that I personally wrote to O. M. Biggar and told him that twenty-two of those polls which you told us about being sent back, that lists were missing in five of them. That was a matter which the Clerk of the Court also acknowledged and it would be very easy for your Department to absolutely assure themselves that that statement was correct; there were five polls of the twenty-two that had no lists in them. Would you say those Registrars or that Deputy Returning Officer should be paid?—A. There was no list enclosed in the poll return do you mean?

Q. There was no list in the ballot box covering that poll?—A. Well, I should say they should not be paid.

Q. Then, if you will recall, on November 2nd, I sent Mr. Biggar a list of polls for which I had received no lists. I imagine that there are one hundred and fifty or more polls there. Would you say that those registrars should be paid?—A. Well, this thing was decided by Mr. Biggar subsequent to that letter.

Q. But you are in charge of the Department now and I think it is only fair that you should tell the Committee if a similar instance arose?—A. I would have done exactly as Mr. Biggar did.

Q. You would have gone ahead and paid them?—A. Under the circumstances, yes.

By Mr. Hanson:

Q. Although they had not filed them?—A. We had no knowledge of that at the time. Representations were made to us that some of those numbers, the list had been delivered to the candidate.

Q. After the election was over?—A. I did not take the pains to read the file over again, but I remember there was something to that effect.

By Mr. Kellner:

Q. It would not take any longer for the lists to get out than the poll book.

Hon. Mr. LAPOINTE: Do you mean that the returning officer should not be paid because one of the lists did not reach the candidate?

Mr. KELLNER: I say the Registrar who prepared that list and did not put it in the ballot box should not have been paid. That is clearly brought out in the Elections Act. I think we have a clause there which provides that the election officers must put all their returns in the proper envelopes.

By Mr. Kellner:

Q. If they do not do that, what is the penalty?—A. The penalty is the forfeiture of the payment to the Deputy Returning Officer, but there is nothing about the Registrar.

Q. I think there is. I think it is provided that if the Registrar does not prepare his lists in the correct way, his remuneration will be decreased?—

A. Well, the only case I know of is the case of the Deputy Returning Officer not putting them in the proper envelope at the close of the poll.

Q. In these twenty-two polls in which there were no lists in five of them, he could not have returned those files; the returning officer could not have had the proper papers in the proper envelopes because they did not have any at all in the envelope prepared for the lists?—A. Then they should be deprived of their pay and so should the Registrar if he did not supply the lists.

Q. But they were not really?—A. Well, apparently not.

Q. Then, that is all the information you had about those lists, but in the meantime you knew that criminal proceedings had been taken against some of the officials in that district, did you not?—A. Well, long after the payments were made, or sometime after the payments were made.

Q. Now, when were they made? Perhaps it will help you out if I call your attention to the fact that there is a letter of February 22, addressed to the Auditor General, which reads as follows:—

DEAR SIR,—It appears to me that the accounts received from the Deputy Returning Officer of the polling division of Electoral District of Athabaska mentioned in the second paragraph of Mr. Biggar's letter to you of 23rd last may now be paid.

(Sgd.) JULES CASTONGUAY.

A. That was to the Deputy Returning Officer.

Q. You sent the letter yourself instructing the Auditor General that he may now pay the accounts?—A. Yes.

Q. Well, that letter should be dated 1926, should it not?—A. It is dated 1926, here.

Q. It is 1925, in this file. That is evidently an error?—A. It is a 1926 letter.

Q. Now, at the time that you issued those instructions those criminal prosecutions were under way, were they not?—A. Apparently they were, yes.

Q. And you had been notified that a petition had been signed by more than twenty-five electors asking for an investigation under the Corrupt Practices Act?—A. I do not remember whether I had been notified or not.

Q. Well, it was filed early in February and it was filed here in Ottawa, so it must surely have been brought to the attention of your Department?—

A. I would not say whether I knew about that petition or not at the time.

Q. You do not know whether you knew about it. Well, here was information that was general knowledge; whether you knew it or not, practically everyone else did that was interested. They knew that there had been a lot of lists that had never been reported and that there were criminal proceedings in the Courts and a petition in Parliament asking for a Commission, and it had been divulged in the criminal proceedings that corruption had taken place. Now, under those conditions, do you think your Department did not go pretty far in authorizing the Auditor General to pay those accounts?—A. Well, the whole story of the accounts is in this file here, and it is stated in this file the reasons why we authorized the Auditor General to pay the accounts. That is stated here.

Q. What is the statement? I think I have read it, but I never saw anything that I thought justified doing it.—A. You quoted my letter, but there is Colonel Biggar's letter here before my letter.

[Mr. Jules Castonguay.]

Q. He is not here or I would have quoted his.—A. I did not know that this thing was coming up or I would have brushed up on it. I was not given any notice that I was going to be examined on this point. I was merely told to bring a certified list of the poll officers.

Q. I submit, Mr. Chairman, that this is a very fair question. The management of the Department is certainly in question and it has been brought out in debate in the House that these accounts should not have been paid. Now, I do not think it is going to get anywhere to evade the issue.—A. To answer the question properly I would have to get the correspondence and to quote the reasons that Colonel Biggar gave when he paid the accounts. That is all in the correspondence here.

Q. I do not think the accounts were all paid at that time. Have you a statement of when the last of the accounts was paid, showing the last payment?—A. No, of course we have no statement of that.

Q. You have no statement showing the last, have you?—A. No, the Auditor General looks after the payment of the accounts.

Mr. KELLNER: Could we get the Auditor General to answer that question, and it will save us going back over this point again.

The CHAIRMAN: Very well, the Auditor General may answer that.

GEORGE GONTHIER (Auditor General) examined.

By Mr. Kellner:

Q. I do not think that it is necessary to swear the witness. Can you tell us when the accounts were paid in the Athabaska constituency?—A. They have not all been paid yet. We have still a few accounts to be paid.

Q. When was the last one you did pay?—A. Six months ago.

Q. That would be taking us back to about August or September of last year?—A. About November.

Q. That was long after the investigation had taken place?—A. Yes.

Mr. KELLNER: I think that will be all from the Auditor General for my part.

Witness retired.

Mr. CASTONGUAY's examination continued.

By Mr. Kellner:

Q. Now, M. Castonguay, the Auditor General has just pointed out that some of those accounts were paid as recently as November of last year, that was long after this investigation had been held. Would it be your opinion that there was any justification for paying some of those that had committed offences at that time?—A. Of course, until the offence had been declared and the conviction brought to our notice—we have no machinery by which we can get the information.

Hon. Mr. LAPOINTE: Did you mention which accounts were being paid?

Mr. KELLNER: I am going into the details of some of them in a minute. I have not done so yet.

By Mr. Kellner:

Q. Mr. Castonguay, a little earlier you made a statement about having received representations that these accounts should be paid. Would you mind telling us who made those representations to your Department?—A. Speaking from memory, there were a list of polls submitted to us; a list of polling divi-

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sions and representations were made to us that the list had not been delivered to some of the candidates and on that information we wrote the Auditor General asking him to hold these accounts. Later on—I am speaking from memory, I did not brush up on the thing—a representation was made to us by the Election Clerk that amongst the polls mentioned, the Election Clerk himself said that he had delivered to the candidates several of the lists and that he knew that several more had been delivered to him.

Q. Just before you leave that point, I want to inform you that if you check up on that statement, I never said I had not got the lists that he said he had delivered to me. He was simply building up a straw man there. If you check up on the lists you will find that the numbers he said he delivered to me I did not dispute having possession of, so there is nothing in that statement. —A. Well, that is the way I understood it.

Q. You had better go over that carefully.—A. That is how the decision to pay the accounts came about.

Q. But you got requests from more than the Election Clerk surely?

By Mr. Hanson:

Q. In writing, or verbally?—A. The file here shows the whole thing. It is all in this file here.

By Mr. Kellner:

Q. Well, possibly it may be better if you prepare a list of those requests and submit it to the Committee at a later sitting.—A. Of the representations made to us?

Q. Yes.

Mr. KELLNER: I think, Mr. Chairman, if I have the privilege, I will move that he be requested to furnish us with a list of those who requested payment for those election accounts.

The CHAIRMAN: I do not quite understand you. A list of what?

Mr. KELLNER: A list of those who requested payment.

The CHAIRMAN: Of those officers?

Hon. Mr. LAPOINTE: Are those men you are referring to now mentioned as having been guilty of any fraud or corrupt practice in the court?

Mr. KELLNER: Some of them are, but outside of the ones mentioned in the report there are a real lot that were guilty of irregularities in the conduct of their work. Payment was stopped for a while, and later they were paid. Now, I think the Committee should have a statement of those who requested that payment be made, after it had already been stopped.

Mr. HANSON: The Committee should have more than a list of those who made the requests. They should have the requests themselves from them. He has the file there and it will only take him five minutes to turn them up.

Hon. Mr. LAPOINTE: I suppose those who wanted those lists made requests for them?

Mr. HANSON: Quite likely he is right about that.

The WITNESS: On February 27th, we got a letter from the Election Clerk, and he was asking for payment. I will read the letter if you like.

By Mr. Kellner:

Q. Read the letter.—A. The letter is dated St. Vincent, Alberta, February 27th, 1926, and is from Mr. L. Langevin to Mr. O. M. Biggar, K.C., Chief Electoral Officer. It is as follows:

DEAR SIR,—Your most unsatisfactory letter of the 22nd received.

How can you tell me that most of the D.R.O's and Poll Clerks have been paid when not a single one that I know of has been paid? How can you tell me that all the registrars accounts have been paid except those who have not furnished a copy of their voters' list to Mr. Kellner when the registrars for polls Nos. 125, 126, 134, 135, 136, 137 and 158 and many others are not paid and for which I have personally handed Mr. Kellner copies of the voters' lists?

Mr. KELLNER: I never said he had not sent me some lists. That is followed out in the next letter.

The WITNESS: (Continues reading): Finally you terminate your letter by stating that unless Mr. Kellner is satisfied the accounts of the other registrars must remain unpaid in which I don't agree with you. We have not been employed by Mr. Kellner but by the Dominion of Canada. If by accident or for some reason or other these lists did not reach Mr. Kellner, you can't hold the registrars responsible for it. And then what about the messengers, myself and the returning officer who have all spent a considerable amount of our own money, are we not going to get our pay if Mr. Kellner says no? Has our liberal government got so low and cheap as to be dictated by a defeated candidate of Mr. Kellner's calibre? I must request that all the election accounts for Athabasca be paid without any further delay.

By Mr. Kellner:

Q. Who sent that letter? —A. The Election Clerk, Mr. Langevin. On receipt of that letter we wired Mr. Kellner on March 6th, as follows:

Referring my letter December 23rd re registrars propose releasing registrars accounts Monday unless good reason to contrary appears.

That is signed by Mr. O. M. Biggar. On the same date we received a telegram to this effect:

EDMONTON, ALBERTA,

March 6, 1926.

Strenuously object to payment of any registrars previously objected to. Several large lists are in forest reserve where only two or three families live pending prosecutions and enquiry under Corrupt Practices Act will disclose facts.

Q. There, the objection was to payment.—A. Then, Colonel Biggar wrote on March 9th a long letter to Mr. Kellner, as follows:

I beg to acknowledge your telegram of the 6th and have carefully considered whether I would be justified in further delaying the withdrawal of my request to the Auditor General not to pay the registrars from whom you advised me on November 2nd last that you had not received copies of voters lists. I have arrived at the conclusion that, in the circumstances, I would not be justified in any longer delaying this withdrawal.

On November 7th I communicated the contents of your letter of November 2nd to the returning officer, and when you wrote me again on the subject on November 30th I asked you to get in touch with the returning officer in order that the matter might be intelligently dealt with. I sent

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the returning officer a copy of my letter to you and wrote him again when, in answer to your letter of December 8th, I reiterated my previous suggestion. On December 17th you wrote me indicating that you had received voters lists from the registrars for some of the polling divisions mentioned in your letter of November 2nd, but you did not say from which, and in reply to that communication I wrote you on December 23rd advising you that I must soon send to the Auditor General a final list of the registrars from whose accounts deductions should be made, so that it was important that you and the returning officer should promptly settle a list of the registrars in default. On December 22nd, the returning officer wrote me that he had endeavored to see that you were supplied with copies of voters lists for all the polling divisions, but that if any of the registrars had failed, he would, if you would notify him, endeavour to obtain copies of any missing lists.

It would appear from your telegram of the 6th instant that, since my letter to you of December 23rd, you have not taken any further steps in regard to the lists in question, and I have not even received from you particulars of the polling divisions for which, since your letter of November 2nd, lists have been received. Moreover, on the 6th instant, I received from the election clerk, Mr. L. Langevin, a letter objecting to the delay in the payment of the accounts, and saying that he personally delivered to you copies of the lists for polling divisions numbers 125, 126, 134, 135, 136, 137 and 158, which appear, by referring to your letter of November 2nd, to be polling divisions for which you had not then received lists. Mr. Langevin added that there were many other polling divisions the lists for which he personally delivered to you.

Whatever the facts may be, I do not think that, in fairness to the registrars, I would be justified in further indefinitely delaying the payment of their accounts, and I am notifying the Auditor General accordingly. I enclose a copy of the letter which I have to-day addressed to him.

Q. Have you got my reply to that before you?—A. Yes, the reply is dated March 29th.

Q. What is the answer to that?—A. The letter is as follows and it is from D. F. Kellner to O. M. Biggar, Esq., K.C., Chief Electoral Officer.

EDMONTON, March 29th, 1926.

DEAR SIR,—Re your wire of March 6th and your letter of March 9th enclosing copy of a letter to the Auditor General of the same date authorizing the payment to registrars who had not furnished me with the voters lists.

There has been considerable delay in replying to these communications owing to the fact that I have been busily engaged in preparing evidence for prosecution of election officials in this constituency.

I may say that I was considerably surprised to receive your telegram and later your letter that you were authorizing payment to be made, as I did not understand that I was to make continual and everlasting objections to you in order that you might continue to refuse payment which was, as I see it, the only logical course for the Chief Electoral Officer to follow. Certainly the registrars never did their work, and what they did do, in many instances, would have served the ends of justice better if it had been left undone.

Why you should have gone to the trouble to quote me the excerpt from Mr. J. Langevin's letter, covering a number of polls, the lists of which he claimed he had sent me is beyond my comprehension, as in my

letter of November 2nd I sent you the numbers of the lists which I had then received and the numbers mentioned in Mr. Langevin's letter are contained therein. You later requested that I send you the numbers of the missing lists, and in that statement the above numbers do not appear, so you can refer to my correspondence and you will not find any place where I have claimed the lists mentioned in Mr. Langevin's were not sent to me. As far as him handing them to me personally is concerned, such is not the case. In fact, I do not see why this matter was advanced at all, unless it was for the purpose of building up a straw man which might be knocked over. The concluding paragraph of your letter, in which you mention "fairness to registrars", I am disposed to think that you may have considerable trouble in establishing wherein they are entitled to any special consideration for "fairness" from the Government of Canada, whose laws they ignored and whose trust they betrayed. The responsibility of paying them for doing something which they never did or for compiling a list of fictitious and absentee voters is yours and yours alone.

On December 29th, I wrote you asking specially for the voters lists covering polls Nos. 15 and 17. To date I have not had a reply to that letter. I had formerly written to the Returning Officer, whom the Judge at the recent trials told "was as competent as a wooden Indian would be" asking for these same lists, and his reply was that he had sent them to you and could not furnish me with them. Considering the stand that you take and the stand that your returning officer takes, I would like to know how in the name of common sense a candidate might hope to obtain copies of the lists. It would be infinitely more logical to recommend a change in the Act to the effect that registrars were entitled to send them to such candidates as they chose, and to withhold them from the others.

On receiving your letter dated November 7th, I communicated with the returning officer and stated that you had suggested a conference to discuss the matter of lists that I had not received. In reply to that I have a letter from the returning officer under date of January 4th, in which he suggests that I go to Donatville, if you have any idea where that is, to see him about the matter. Imagine the service it would render a candidate in an election to interview a returning officer of the mentality of the one in this constituency on the 4th of January, 1926, concerning lists which were used in an election on October 29, 1925. I have taken the trouble to prepare another statement showing the lists that are missing as of date. Quite a number of ones that I have received reached me too late to be used for the purpose for which they were intended.

Then, there is a list of missing polls there.

Q. Do you agree with the statement that the responsibility for paying those officials rested on your Department?—A. Well, after telling the Auditor General to withhold payment, Colonel Biggar gave instructions to pay the accounts.

Q. And one of those officials we will find in Judge Clarke's report on page 2. You have one of the reports before you. Cold Lake Poll, No. 212-A. Judge Clarke says:—

I find that Martin Nyhus, who was the Registrar for this polling division, was guilty of wilful misfeasance by inserting in the list of voters prepared by him the names of persons who to his knowledge were not qualified as electors to vote in this polling division. The list contains 402 names, which is more than double the number of persons qualified to vote.

Q. Was Martin Nyhus paid?—A. I could not say.

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Q. I have a return here, 126A, which was gotten out some little time ago and laid on the Table of the House. 212A, Martin Nyhus, Cold Lake, gets \$63.12 for making out that list.

Mr. HANSON: Will you ask him if he has ever tried to get it back?

By Mr. Kellner:

Q. Did you ever try to recover that money?—A. I do not think the recovery of money is part of our duty.

By Mr. Hanson:

Q. Did you ever recommend to any Department that it be recovered?—A. Of course the Department of Justice looks after those cases.

Q. That is not an answer to my question. Did you ever make any recommendation that that public money, fraudently obtained from the Treasury, should be recovered?—A. No, no recommendation was made.

Q. You had full knowledge of the fact that he had been overpaid, after Judge Clarke's report, and you took no action?

Hon. Mr. LAPOINTE: Are you sure that you could recover the money which was paid to an election officer, who acted as election officer, simply because some list has been missing or something of this kind?

Mr. HANSON: No, that is not the case.

Hon. Mr. LAPOINTE: There is a difference between withholding payment and recovering it after it has been made, because the list has not been delivered.

Mr. KELLNER: Let us discuss one for a minute in which forgery is plain. Remulus Chartier, was a man unable to write English.

Mr. HANSON: That Registrar got money paid under false pretences. It is not the same as a forged list. He made representations which were not true, to his own knowledge, that there were so many names on the list. He was guilty of an offence under the Criminal Code.

Hon. Mr. LAPOINTE: He acted as Returning Officer. However, it is a question of law. I do not think that Mr. Castonguay can answer it.

Mr. HANSON: The point of my question to Mr. Castonguay was, knowing what Judge Clarke had said in his report—or his Department did, or he himself.

By Mr. Hanson:

Q. Were you in office then, Mr. Castonguay, when Judge Clarke reported?—A. Yes.

Q. Did you make any representation to any Department of the Government that this Registrar should be prosecuted for getting money under false pretences, or returning the money?—A. I did not take any action of that kind.

By Mr. Kellner:

Q. I would like to point out to the Minister of Justice a statement in the report of Judge Clarke. Speaking of this Martin Nyhus, he says he was guilty of wilful misfeasance by inserting in the list of voters prepared by him, the names of voters who to his knowledge were not qualified as electors. He did it knowing what he was doing. There is no question but that he forged the return that he sent in for payment of his poll. Now, we will go down to the next one this Remulus Chartier, a man unable to write English was the Deputy Returning Officer. You know the duties of a Deputy Returning Officer?—A. I know them pretty well, yes.

Q. Could he do those duties if he were unable to write English?

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MR. JACOBS: He could write French. He is a French speaking man, and French is an official language.

By Mr. Kellner:

Q. We will go ahead and see what Judge Clarke says about it:

John Vadaboncoeur was poll clerk. The poll clerk and the statement of the poll shows 73 to have voted as follows: 54 for Cross, 3 for Gauvreau, 16 for Kellner. I find that approximately 27 of the persons named in the poll book as having voted did not vote, and most of them are unknown.

Now, the Deputy Returning Officer, whether he could read French or could not, is guilty of an offence there in allowing ballots to get into the ballot box for sixteen people who never went there to vote. A. He is certainly guilty under those circumstances.

Q. He is guilty and I suppose we might as well look it up and see whether he has been paid or not. That is 212A, is it not and I see he only got \$7. They let him off pretty cheap?—A. That is the Deputy Returning Officer.

Q. Then Martin Nyhus gets in again with \$5 for being constable at the poll. Then take Reita Lake poll, No. 220 on page 3 of Judge Clarke's report.

I find that what purports to be the voters' list for this poll and to be signed by Thomas J. Cardinal as Registrar, and returned with the election papers, contains 73 names, and that not more than ten persons were entitled to vote in this division; that no such person as Thomas J. Cardinal is known in the neighbourhood.

In checking over the names I find that Thomas J. Cardinal of Frog Lake, got \$20.26, and he does not exist according to Judge Clarke's finding. How can you account for this mythical person being paid here?—A. Well, of course the account was submitted in the regular way. One thing I am sure, if we had been given information at the time that these things had taken place, there might have been a different result altogether. The only complaint we received was that a few of the Registrars had omitted to send the lists, that is all. If we had been given some intimation that this kind of work had taken place, we might not allow the accounts to be paid.

By Mr. Jacobs:

Q. You paid these moneys before Judge Clarke's report came in?—A. Certainly.

MR. KELLNER: I challenge that statement. The Auditor General just told us a few minutes ago that some of them were paid last November.

HON. MR. LAPOINTE: Would that include Cardinal's?

MR. KELLNER: I have not any idea about the particular accounts.

HON. MR. LAPOINTE: Because that would be forgery in the case of Cardinal.

By Mr. Kellner:

Q. You said that you had not any information about it. You read Judge Clarke's report surely?—A. I saw Judge Clarke's report, but that came along after we had released the accounts.

Q. Once the money was paid over did that end it all? Was there no possibility of having it refunded?—A. Well, of course, I am proceeding pretty well on precedents and I know that in previous years there had been crooked dealings going through and the proceedings were not taken by our office and I thought the same procedure would take place in these cases.

[Mr. Jules Castonguay.]

Q. You knew that this had been debated in the House a couple of times and this matter had been referred to?—A. Yes, I knew that.

Q. So you had knowledge of it all right? Then, we will pass on to some of the others. Take Martin Grasdahl, the Deputy Returning Officer at 220, and we will see what he got. He was paid \$20.50 for acting as D.R.O. That is considerably above the prescribed rate is it not?—A. He was the Deputy Returning Officer?

Q. Yes, Judge Clarke says he finds he was guilty of forgery, having certified the oath to have been sworn before him, which it was not. He gets \$20.50 for that. That is another one which would look as if it might be a good idea to see if you could not get your money back. You could not have justified the payment if you had known the conditions?—A. Not in the face of this report.

Q. Then take poll No. 222, on page 4; the Bates poll.

The voters' list for this poll certified by Peter Peterson as Registrar contains 200 names. Less than 10 voters resided in the polling division, which is a Reserve. The list is a sham and was evidently prepared by Harry Bowtell, who procured Peterson to sign it on the morning of the election day.

Now, if there were only ten voters there it would not have cost over \$5 at the most to get out a voters' list?—A. For ten voters; well no, there would be a fee of \$10 anyway.

Q. And the \$5 additional would make \$15. We will look up and see what Peter Peterson got. He was paid \$40 for that?—A. It must have been for mileage.

Q. You want to remember that there were 200 names on there and no one lived there. It would be hard on him to find names to put on the list.—A. He made out his account based on 200 names.

Q. Would it not be the right thing to do to endeavour to get a refund of that money?—A. I think something of that kind should be done.

Q. Now, come down to 218, P. A. Patterson. Judge Clarke says:—

No voters' list for this poll can be found but in the return there is what purports to be a voters' list for polling division No. 222, which appears to be a duplicate of the voters' list for that poll, except that it purports to be signed by P. A. Patterson, a person unknown as Registrar.

In the examination of that poll and 222 and 223, it is shown that there was the same voters' list for all these polls and that they simply made them out on a typewriter and took carbon copies of them. Judge Clarke mentions it as 222, but not 223. This P. A. Patterson is a person unknown, but he is regarded as the Registrar for 218, and I think was paid as well. 218, Peter Peterson, Frog Lake, \$43.25. Now, that is a pretty fair remuneration for putting your name on a voters' list that someone else has made out for you on a typewriter and hands you to sign. Would it not be your opinion that that money should be refunded?—A. All these cases are the same.

Q. We might go through the whole list, but they are practically all the same, and I do not know that it is necessary to do that. On page 13. of the report, I want to refer to the fifth paragraph:—

In connection with this poll, a cheque was issued by the Auditor General to Thomas J. Cardinal for \$24.26, for his services as Registrar. No such person existed. The cheque was obtained by Emma A. Bowtell, wife of Harry Bowtell, the Postmaster at Frog Lake, and she endorsed on it the name of Thomas J. Cardinal, and obtained payment and appropriated the proceeds to her own use, and I find her guilty of forgery in respect thereof.

Now, take No. 218.

I find that the Polling Station Account for services rendered at this poll is false and fraudulent. It purports to be signed and certified by Elmer Ford as Poll Clerk, Ale Anderson as Constable, and B. Tourangeau as Interpreter, as well as by Peter Peterson as Deputy Returning Officer, and claims fees for services performed by all of them in their respective capacities, and a charge for C. Cardinal as owner of Polling Station, whereas in truth no such services were performed, other than those performed by Peter Peterson in the manner mentioned in my former report.

Then the next paragraph:—

In connection with this poll, a cheque was issued by the Auditor General to P. A. Patterson for \$40 for his services as Registrar. No such person existed. The cheque was obtained by Emma A. Bowtell, already mentioned, and by her direction the name of P. A. Patterson was endorsed upon the cheque by her thirteen year old daughter, by means of which Emma A. Bowtell obtained payment, and appropriated the proceeds to her own use, and I find her guilty of forgery in respect thereof.

Now, there is a case where this woman forges one cheque herself, and gets her thirteen year old daughter to forge the other, and you pay both cheques and make no effort to get the money back. Is that the situation?—A. I do not know whether any effort has been made to get the money back.

Q. None by your Department?—A. Not by our Department. No effort has been made by our Department.

Q. I was going to make reference to the use of the Election Stamp. Have you ever read Judge Clarke's comment on that?—A. I do not remember reading it.

Q. You will find it on page 7, at the bottom. But before we discuss the Stamp, just one other question about the payment of these election officers. In view of the disclosures this morning, will you consider it your duty to recommend to the Auditor General, or whatever Department does that work, that an effort be made to recover these payments that have been made to officers and apparently received?—A. Well, I don't know whether that would help any. The Auditor General usually follows those things up very closely. I would not hesitate to make any recommendation of that sort.

Q. You would not hesitate to make it?—A. No.

Q. But you would not think that the Auditor General would take any action without you recommending it, would you?—A. I think he would. If my suggestion is necessary, I will have no objection or hesitation in giving it.

Q. To be safe I am going to suggest that you request him anyway. Now, in regard to the Official Stamp, you are familiar, of course, with the instructions that are sent out with the Stamp to the Returning Officer?—A. Yes.

Q. Briefly, what are they?—A. They are to the effect that only one Stamp is furnished. It is contained in paragraph 46, of the Election Instructions. It says,

The Chief Electoral Officer is required to obtain and forward to each Returning Officer an "Official Stamp" for the purpose of stamping the ballots and thus making the improper use of unauthorized ballots so much the more difficult. The Statute, for good reasons, directs the issue of only one Stamp and more than one will in no circumstances be supplied. The ballots cannot be stamped until after they have been printed, and the work will generally require to be carried on by two persons, of whom one handles the ballots and the other the Stamp. By such an arrangement it will be found readily possible to stamp about

4,000 ballots an hour, and the stamping will consequently delay the distribution of supplies for the polls by only a few hours even in the largest electoral districts. The impression will be made on the back of the ballot and so placed as to be capable of being seen when the ballot is folded.

Q. It says that he is to treat it as a confidential instrument and not to let it out of his possession?—A. Well, he is to use it himself according to the Act.

Q. In this case he sent it to Edmonton to a man by the name of W. R. Wilson, and Wilson stamped the ballots. He was never near them at all. You know that from Judge Clarke's report. Would you say that he was in possession of that Stamp according to the directions in the Elections Act?—A. Well, he sent it to Edmonton, and if he got the ballots stamped at Edmonton, I would say that he was not in possession of the Stamp.

Q. If you leave it the way it is at the moment, do you not think that any Returning Officer that reads Judge Clark's report might treat that Stamp in that way in the next election?—A. Oh, I don't know.

Q. You have the record of one doing it in the last election, and you have the Judge concurring in that action with some doubt?—A. He was not commended for doing it.

Q. What is your answer?—A. He was not praised for doing it.

Q. Still, he got away with it. Do you not think something should be done to clear that up so that there would not be any chance in the world for a returning officer to send a Stamp out in that way?—A. This paragraph of the instructions could be lengthened and made clear that the Returning Officer has to keep possession of the Stamp.

Q. I am bringing this out because I am under the impression that your Department is authorized to recommend to Parliament any amendments that come to their attention that would be beneficial to the Act?—A. Yes, for the more convenient operation of the Act and the administration of the Act, but no fundamental changes.

Q. Was your attention ever called to the way the ballots were printed in the Athabaska election? For instance, that there were two sets of ballots?—A. Yes, I remember reading some correspondence about it.

Q. You have not read the evidence that is before the Committee at the moment?—A. I have not read the evidence. The only knowledge I have of it is the correspondence that was exchanged.

Q. Did you know that the ballots after they were printed were sent to Cross's committee rooms instead of the Returning Officer's?—A. I did not know that.

Q. That is contained in the evidence now before the Committee. In your opinion, would that be a compliance with the instructions in the Act, to send the ballots over to one of the candidate's committee rooms instead of to the Returning Officer's?—A. In my opinion, it would not.

Q. That might very well be followed by a Returning Officer in the next election, because there is the record that it was done this time, and nothing done about it.—A. I don't think there is any danger of any Returning Officer trying to do the same stunt.

Q. Would you recommend an amendment to the Act to preclude the possibility of it?—A. It is only a matter of opinion; you think it would not, and I think it will. I might be right as likely as you might be.—A. Well, of course the penalty clauses in the Act cover a lot of ground, such as this.

Q. Then, would you say that we had better take the chance of sending them to the committee rooms?—A. I don't think there is any danger on this point.

Q. If we had been questioning you previous to 1925, you would not have thought so?—A. No.

Q. But it has happened?—A. Well, I don't think there is any danger of a repetition of that.

By Mr. McQuarrie:

Q. What are you going to do to prevent it? Are you taking any steps to prevent a repetition of such occurrences?—A. The only suggestion I could make is the one I made at the beginning of the sittings.

By Mr. Kellner:

Q. I do not know what that was. —A. About the appointment of Returning Officers.

Q. That would not cover the printing of the ballots at all?—A. To my mind it would cover the whole administration of the election.

By Mr. McQuarrie:

Q. Have you read Judge Clarke's report?—A. I have read a good part of it.

Q. You have not read it all?—A. No.

Q. Do you not think it would be advisable for you to read it all?—A. Certainly, I intend reading it.

Q. How long is it going to take you to read it all? —A. Not very long. It is not very long.

Q. How long do you suppose?—A. Is this all of it?

Q. You have had it here for some time, I suppose. When did you first get possession of this report?—A. Some time ago.

Q. It must have been some time ago; that is quite obvious, but that does not give very much information to the Committee.

Mr. KELLNER: The report is dated in the fall of 1926.

By Mr. McQuarrie:

Q. In 1926 this report was issued but you have not succeeded in reading it yet? —A. I have read it, but it was a year ago when we received the report.

Q. You read it then?—A. Yes.

Q. And then you did not do anything about it, or did you make any suggestion based on that report at all? Did you think of anything of that kind? —A. We are governed by the Act. The Chief Electoral Officer is held by the Act.

Q. But you are entitled to make suggestions?—A. We are entitled to make suggestions for the more convenient administration of the Act; but when amendments involve fundamental changes, that is a matter left to Parliament.

Mr. KELLNER: Mr. Chairman, it is now one o'clock, and I suggest that we adjourn.

Hon. Mr. ELLIOTT: Just before we adjourn, there is a question or two I would like to ask the witness.

Mr. McQUARRIE: I have not finished. I thought I would have an opportunity at another meeting of continuing.

Mr. KELLNER: Thursday is a holiday. Are we going to meet to-morrow, or shall we say Friday? I move that we adjourn until Friday.

The CHAIRMAN: Carried.

Mr. KELLNER: There is a paper I have mentioned. It is understood that Mr. Castonguay will bring that.

The witness retired.

The Committee adjourned until Friday, May 18th, 1928.

COMMITTEE ROOM No. 424,
HOUSE OF COMMONS,
TUESDAY, May 22, 1928.

The Select Standing Committee on Privileges and Elections met at 11 o'clock a.m., the Chairman, Mr. J. J. Denis (Joliette) presiding.

The CHAIRMAN: Before we proceed with Mr. Castonguay any further, Mr. Lemaire has been called here to produce copies of orders in council. Perhaps it would be advisable to dispose of these right away, so that Mr. Lemaire will not be detained unnecessarily. Is it the wish of the Committee to hear Mr. Lemaire now?

Agreed to.

ERNEST J. LEMAIRE called.

By the Chairman:

Q. Mr. Lemaire, you have been called to produce an order in council appointing His Honour Judge Beck first, and then upon the resignation of Judge Beck an order in council appointing Judge Clarke as Commissioner. Have you copies of these order in council?—A. I have, sir.

Q. Are you ready to file them?—A. Yes, sir.

The CHAIRMAN: Has any member of the Committee any questions to ask?

Mr. KELLNER: I think we should have these read, Mr. Chairman.

The CLERK: (Reading):

P.C. 473.

CERTIFIED to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 27th March, 1926.

The Committee of the Privy Council have had before them a Report, dated 25th March, 1926, from the Right Honourable W. L. Mackenzie King, Prime Minister, submitting that the House of Commons has by an address represented to Your Excellency that a petition has been within the time specified in the Corrupt Practices Act, being Chapter 8 of the Revised Statutes of Canada, 1906, as amended, presented to the House of Commons by more than twenty-five electors of the Electoral District of Athabasca stating that no petition charging the existence of corrupt practices has been presented under the Dominion Controverted Elections Act and that corrupt or illegal practices have, or that there is reason to believe that corrupt or illegal practices have prevailed in the election holden in the Electoral District of Athabasca on the 29th day of October, 1926; that the said petition was presented to the House of Commons on the 29th of January, 1926, and on the 1st day of February, 1926, was laid upon the table of the said House of Commons with the report of the Clerk of Petitions stating that he had examined the petition of the more than twenty-five electors of the said Electoral District and that all the requirements of the said Corrupt Practices Inquiries Act in respect of such petition had been complied with; and that the said address humbly prays that Your Excellency shall cause inquiry to be made, under the said Corrupt Practices Inquiries Act as amended, by one or more of the Judges in the said address named.

[Mr. E. J. Lemaire.]

The Minister, deeming it expedient that an inquiry pursuant to the said Corrupt Practices Inquiries Act be made, recommends that the Honourable Nicholas Dominic Beck, a Justice of Appeal of the Supreme Court of Alberta, named in the said address, be appointed, pursuant to the said Corrupt Practices Inquiries Act, a Commissioner for the purpose of making inquiry into the existence of such corrupt or illegal practices and to report as provided by the said Act.

The Committee concur in the foregoing and submit the same for Your Excellency's approval.

(Signed) E. J. LEMAIRE,
Clerk of the Privy Council.

"P.C. 1084"

CERTIFIED to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 10th July, 1926.

The Committee of the Privy Council have had before them a Report, dated 7th July, 1926, from the Right Honourable Arthur Meighen, the Prime Minister, submitting that the Honourable Nicholas Dominic Beck a Justice of Appeal of the Supreme Court of Alberta, was appointed, pursuant to the authority set forth in an Order in Council bearing date the 27th day of March, 1926, (P.C. 473), a Commissioner to make an inquiry into the existence of corrupt and illegal practices said to have prevailed in the election holden in the Electoral District of Athabasca on the 29th October, 1925, as mentioned in the said Order in Council.

The Minister states that the said the Honourable Nicholas Dominic Beck has not conducted such inquiry but has tendered his resignation as Commissioner for the purposes mentioned.

The Minister accordingly recommends that such resignation be accepted and that the Honourable Alfred Henry Clarke, a Justice of Appeal of the Supreme Court of Alberta be appointed to make such inquiry in the room, place and stead of the Honourable Nicholas Dominic Beck.

The Committee concur in the foregoing recommendation and submit the same for approval.

(Signed) E. J. LEMAIRE,
Clerk of the Privy Council.

By Mr. Kellner:

Q. I was under the impression that you were also to produce an order in council appointing returning officers for the constituencies. I think that was asked for with these documents?—A. I have no objection to that. I simply brought the orders in council that were asked for. My summons reads:

That the Clerk of the Privy Council be summoned to attend with certified copy of the order in council appointing Commissioner Beck and Commissioner Clarke to hold an investigation into corrupt and illegal practices in the constituency of Athabasca in the Federal election of 1925.

Mr. KELLNER: Evidently I neglected that, and I ask now that we have it later on.

The CHAIRMAN: Later in the day?

Mr. KELLNER: Whenever it is convenient.

Hon. Mr. LAPOINTE: You do not want the whole of the returning officers?

Mr. KELLNER: No.

[Mr. E. J. Lemaire.]

The CHAIRMAN: How long will it take you to get that, Mr. Lemaire; can you get it before one o'clock?

WITNESS: Yes.

The CHAIRMAN: Very well, you can let us have it. At the last meeting we were proceeding with the evidence of Mr. Castonguay. Is it the pleasure of the Committee that we continue with that evidence now?

Agreed to.

JULES CASTONGUAY *recalled.*

By Mr. McQuarrie:

Q. Mr. Castonguay, I think I was asking you some questions when we adjourned. Have you had a chance to read the report since we adjourned?—A. I have read it carefully since.

Q. You say you have read it carefully since?—A. Yes.

Q. At that time you said you had not read it for some years?—A. When this report came in, Colonel Biggar was in charge of the office, and all such reports dealing with court proceedings and legal work, he being a lawyer, I did not give very much attention to them, because I knew he could deal with them easier than I could.

Q. Are you not a lawyer too?—A. No, sir.

Q. However, you have since read it over carefully, you say?—A. Yes.

Q. Have you any suggestions to make in regard to the various matters which are contained in the report, that is, in the way of improving conditions so that there is not likely to be a recurrence of these corrupt practices and unlawful acts?—A. Well, the only suggestion I think would improve things I made the other day, that is, in the appointment of returning officers.

Q. What was that?—A. That they be chosen from amongst the provincial officers, such as sheriffs and registrars.

Q. You think that everything depends upon the returning officer who is appointed?—A. Well, I do not think it would be an absolute safeguard. I think it is impossible to keep individuals, polling station officials, in the outskirts of electoral districts, such as Athabasca, if they took a notion to do corrupt practices of that kind, I think it is very, very hard to check them up. The appointment of a returning officer of that kind would certainly be a guarantee that a repetition of these corrupt practices would not take place, if he were chosen from amongst the provincial officers.

Q. As far as the chief electoral officer is concerned, he has no responsibility at all?—A. Well, if complaints are made to us, under section 18 we are given power to recommend the removal of a returning officer, or having the election officer complained of removed, if the complaints are adjudged sufficient.

Q. That is, at the time of the holding of an election?—A. At the time of the holding of an election.

Q. And then after the election you have no authority or responsibility at all?—A. Section 75 of the Election Act directs the chief electoral officer to make a report to the Speaker of the House of Commons, a report containing all complaints received by candidates, agents and election officers, reports received in connection with the last election. A report has been made out after each election.

Q. You make a report to the Speaker of the House of Commons, and then your responsibility ends as far as that election is concerned? A. As far as that election is concerned.

Q. Well, do you not think it would be advisable to give more authority to the chief electoral officer, so that he could follow these things up?—A. I remember discussing that with Colonel Biggar on several occasions, and he found some difficulty in that proposal.

Q. I suppose he did find a number of difficulties?—A. When these difficulties arise, they involve a lot of extra work, and I suppose that it would require the chief electoral officer to travel to the place where a difficulty arose. It is impossible to do that, because it is impossible to leave Ottawa at that time.

Q. But you have nothing to do after an election is over and the reports are made until the next election comes around, have you?—A. There is quite a lot of work to do.

Q. What work is there to do, if your responsibility ceases as soon as you make a report to the Speaker of the House; your responsibility ceases as to the election which has been held, and all you have to do is to wait around until the writs are issued for another election?—A. I would not say that.

Q. What do you do, what does the chief electoral officer do in the meantime; that is what I am trying to get at. You did not worry about that report at all, you did not even read it?—A. I read it partly, but I did not read it as carefully as I would if I had been in charge of the office.

Q. You have been in charge for some time?—A. I have been in charge since July, 1927.

Q. You have had pretty nearly a year in which to read this report; you did not have anything else to do, and apparently you did not even read the report through. What is the good of having a chief electoral officer except at election times?—A. The report was never sent to me. The copy I read was a copy that had never been sent to the office. There is nothing in the Act which says that the report shall be sent, and the copy I read I got accidentally.

Q. Perhaps it is not your fault; I am not complaining about you, it is the system?—A. It is the system.

Q. In that connection you have no suggestions to make at all in regard to improvements, or as to giving more authority to the chief electoral officer?—A. That would tend to prevent corrupt practices of that kind.

Q. All we have from you so far is a suggestion that you think that provincial officers, sheriffs and court registrars and so on should be appointed as returning officers?—A. Yes, that is the only suggestion that is worth while mentioning.

Q. I am not attempting to go through all these items with you; you have since read the report and have noticed in regard to the ballots marked that they would indicate that there were some very objectionable features; I am not going to go through these several reports with you, unless Mr. Kellner wishes to do so.

By Mr. Kellner:

Q. You have a copy of the ballots?—A. Yes.

Q. They are not exactly the same?—A. No.

Q. You might explain to the Committee the difference?—A. There is a difference in the printing of these ballots; in one the name Ferdinand is spelled "Ferdi" and in the other it is spelled "Ferde"; and in one the name (Gauvreau) is spelled "Henri", and in the other it is spelled "Henry".

Q. You have examined the watermarks?—A. I have examined the watermarks, and I am satisfied the ballots were printed on the right paper.

Q. And also on the paper you had returned to you?—A. Yes.

Q. Get the numbers of them before you hand them to Mr. Bennett?—A. The one that seemed to be improperly printed is No. 5725, and the other one is No. 34100.

Q. You see the watermark in that sheet (shows to witness). Compare that with the ballot and see if it is the same watermark?—A. Of course, with regard to the watermark, this paper was printed several years ago, and when we got it printed, the first order we sent we ordered a watermark, and it was not calculated that the watermark would strike the counterfoil on the form. You

[Mr. Jules Castonguay.]

can see the watermark. It is very close to the counterfoil. We have remedied that by putting the watermark farther in.

Q. We had several kinds of paper?—A. The only kind of paper he had was this (indicating).

Q. In that election they had some other paper, some with the watermark here, and some there?—A. On all the ballots I have examined it was on the counterfoil. The watermark has only part of it shown.

By the Chairman:

Q. Are the ballots sent out as they are here except for the printing?—A. I have brought with me a sample of the paper sent to the returning officer cut here and cut here (indicating).

Q. They only do the printing?—A. They only do the printing.

Q. And the binding?—A. And the binding and the cutting.

Q. Besides that, they are all numbered?—A. Every sheet that was sent was numbered.

Q. Therefore, when you wrote 34099, it was one of these sheets? A. The ballots for each electoral district, with instructions to the returning officer, are all numbered, each ballot, from 1 to 35000 or 40000, or whatever number of ballots we have. There has to be a number on the counterfoil and one on the stub, and those two numbers should correspond.

Q. So that the numbering of the sheets is only to ascertain to whom these sheets were sent?—A. Yes.

Q. That is what it is?—A. Yes, to keep control.

Q. To keep control of them?—A. Yes.

Q. For instance, you know that sheets numbered from.... to were sent to Athabasca?—A. Yes.

Q. By that you know how many sheets were sent?—A. Yes.

Q. And how many ballots could be made out of those sheets?

By Hon. Mr. Bennett:

Q. It is quite clear, from looking at these documents, that the chief electoral officer allowed the official paper to pass into somebody else's hands, because the name of the candidate is spelled differently?—A. This is the ballot which was sent to the printer.

Q. What you sent from here?—A. Yes. I understand that in printing they print a whole sheet at a time, and for that reason he has to make half a dozen cuts, and my explanation of this difference in the spelling is that there was a mistake on one of the cuts.

Q. Of course that is only an assumption?—A. Yes.

Q. I was going to ask you this: have you looked into the method of appointing a Director of Public Prosecutions that prevails in England?—A. No, sir.

Q. You have had no occasion to do that?—A. I have had no occasion to do that. I do not remember Colonel Biggar ever discussing that.

Hon. Mr. LAPOINTE: You mean applying only to election matters?

Hon. Mr. BENNETT: Yes, but he says he has not had a chance of looking into it. I was wondering whether you thought the principle which prevails in England now, of having a Director of Public Prosecutions, might be valuable here, if we applied it to our elections, having a public official whose duty it would be to carry on prosecutions the same as the public prosecutor in England.

WITNESS: I have not looked into that.

By Mr. Mercier:

Q. Is the printing in the hands of only one man, or is there more than one?—A. The returning officer can get two or three printers. It is done in some cases.

[Mr. Jules Castonguay.]

Q. The law does not oblige him to have only one printer?—A. No. The law compels him to get an affidavit from each printer.

By Mr. Kellner:

Q. Is there any regulation covering the numbering of the ballots?—A. Our instructions cover that.

Q. Would it be fair to say that they start at one and run up?—A. That is according to our instructions.

Q. Take your lowest number, 5725; it is not likely that he would start in at 5725, he would start at 5000, to say the least?—A. The lowest number?

Q. Yes?—A. He must have started that way.

Q. If there was 34,100 there, you must have had a little more than 35,000 ballots printed, because you have not got the last one here?—A. There should have been ballots numbered up to 35,000.

Q. Have you the printer's affidavit here?—A. As I told you, it has not been returned.

Mr. KELLNER: I understand, Mr. Chairman, that the exhibits in this case are not here.

The CHAIRMAN: I understand they are not.

Mr. KELLNER: You have the evidence?

The CHAIRMAN: I have not looked into the evidence.

The CLERK: The exhibits are not here.

Mr. KELLNER: I want to make a reference to the evidence; do you see on page 5—this is in the criminal prosecution. Read it as far as it is marked to the Committee.

Hon. Mr. LAPOINTE: What is it?

Mr. KELLNER: It is the evidence in one of the prosecutions out there.

Hon. Mr. LAPOINTE: That is not before the Committee. We have the evidence before Judge Clarke, that is all.

The CHAIRMAN: Mr. Kellner, is this outside the evidence given before Judge Clarke?

Mr. KELLNER: This is in the case of a criminal prosecution, Mr. Chairman.

The CHAIRMAN: It is a matter for the Committee to discuss.

Mr. KELLNER: All I want to prove is that the returning officer did not know who printed the ballots.

Hon. Mr. LAPOINTE: Put it in.

Mr. KELLNER: Unfortunately this is the only statement we have from the returning officer. He died shortly afterwards. There are only two or three lines of it. I thought I might be permitted to bring it out. He was questioned under oath, and I think it should be admissible, the same as other evidence.

Hon. Mr. LAPOINTE: We could, perhaps, hear it.

Hon. Mr. CANNON: Mr. Kellner, would you ask Mr. Castonguay if it is within his knowledge that the returning officer made the following statement? I understand the Committee is willing to let it go.

By Mr. Kellner:

Q. Mr. Castonguay, do you know that the returning officer in that election did not know who printed these ballots? I will read it to you, Mr. Castonguay, or you can read it yourself?—A. They objected to letting it in, a minute ago.

Q. Very well, I will read it:

[Mr. Jules Castonguay.]

Isaac Gagnon, called as a witness on behalf of the Crown, being duly sworn and examined by Mr. Cogswell, testified as follows:—

Q. Mr. Gagnon, where do you live?

The CHAIRMAN: I want to submit this to the Committee, before we go any farther. A motion has been passed ordering that the evidence which was taken before Mr. Justice Clarke would be brought before this Committee. The evidence is here now, Mr. Castonguay is here, and Mr. Kellner is now using, I assume, evidence which was taken in a criminal case, outside the evidence that has been produced before the Committee altogether. Now, if we go into evidence which was produced before another Court or in another proceeding, other than that taken before Mr. Justice Clarke, it might take us very far, because I do not know how many criminal cases might have been instituted, or what evidence is in them all. At the present time, this is out of order, because this evidence is not before the Committee and no motion was passed placing this evidence before the Committee. It must be remembered that the order of reference only asked that the interim and final reports of the Honourable Mr. Justice Clarke be referred to this Committee. The interim and final reports were referred to this Committee, and then upon motion of Mr. Kellner it was argued—and properly so, I believe—that the interim and final reports could not be complete unless they were accompanied by the evidence on which these reports were based and therefore, the evidence was ordered to be placed before this Committee. But now we are going into other cases and other evidence, which is altogether irregular.

Hon. Mr. LAPOINTE: I do not understand that Mr. Kellner wants to follow that further.

The CHAIRMAN: I am not objecting but I want to make it clear to the Committee that this is not in order at the present time. If the Committee wants to proceed with it I have no objection.

Hon. Mr. BENNETT: What I understand Mr. Kellner is endeavouring to do is to bring to the attention of the Committee the situation in regard to Athabaska in order that a remedy may be provided if possible. It was reported in the public press and in the records of criminal proceedings that the Returning Officer made certain statements under oath, one of which was that he did not know where the ballots were printed. Then, Mr. Castonguay is asked whether or not he has any suggestions to make that will enable us to meet that difficulty. I think that is all that is intended. That, Mr. Chairman, should not be left out of the report.

The CHAIRMAN: Very well, Mr. Kellner, it is the wish of the Committee that you now proceed.

Mr. KELLNER: Thank you, Mr. Chairman. The evidence I was going to read was this. On page 5 of the Appeal Book in Rex vs. Billos the following appears:

Isaac Gagnon called as a witness on behalf of the Crown, being duly sworn and examined by Mr. Cogswell, testified as follows:—

Q. Mr. Gagnon, where do you live?—A. Donatville.

Q. That is in the Athabasca district, is it?—A. Yes, sir.

Q. Athabasca electoral district. Were you Returning Officer for the Athabasca electoral district?—A. Yes.

Now, we turn to the matter in connection with the ballots.

The CHAIRMAN: Before you go any further perhaps you might indicate to the Committee from what paper you are reading?

Mr. KELLNER: I am quoting from the evidence taken in the Supreme Court of Alberta in the trial of Joseph Billos. The next question is:

[Mr. Jules Castonguay.]

Q. Don't you know from whom you got the ballots now?

He had previously stated that he did not.

Come now, Mr. Gagnon, don't you know who sent you the ballots?—

A. The ballots came from Ottawa, and after, they been printed.

Q. Well, after they were printed, who sent them to you?—A. Who sent them to me?

Q. Yes.—A. I sent a car to get them.

Q. Who did you sent to? You must have given him some instructions to go some place to get them.—A. Yes, I gave instructions, that was the Journal, at the printing office.

Q. The Journal?—A. Yes.

Now, I am sorry you have not got that affidavit with you, because you will find that it is from the Edmonton Printing and Publishing Company.

Mr. McQUARRIE: Where is the Journal Printing Company, Mr. Kellner?

Mr. KELLNER: It is in Edmonton. It is very plain that he did not understand what he was talking about, because they have not got a job printing press and could not possibly print the ballots. You have the evidence there and would you turn up the evidence of the Manager of the Edmonton Printing and Publishing Company. I think you will find it at page 445.

Hon. Mr. LAPOINTE: What evidence now?

Mr. KELLNER: This is the evidence submitted to Mr. Justice Clarke and I think we are in order now. Page 445, I think it is. It is the evidence of the Manager of the Edmonton Printing and Publishing Company. Mr. Chairman, may I ask what will be the best method to bring this evidence before the Committee? Would it be better to do it through the questioning of the witness or to read it?

The CHAIRMAN: Produce the evidence.

Mr. KELLNER: Should we read it?

Hon. Mr. BENNETT: It seems to me that perhaps Mr. Kellner might read it and ask the witness if he has any suggestions to make as to how that condition of affairs could be remedied.

Mr. KELLNER: Then, Mr. Castonguay, you have the copy before you and you will see about the middle of page 445 that Charles F. Race was called as a witness?

The WITNESS: Yes.

By Mr. Kellner:

Q. Now, I will ask you to turn over to next page and starting at the top of the page the witness asks "Who employed us?" Then the questioning proceeds:

Q. Yes, how did you come to be employed?—A. Well, I was just asked to print the ballots, that was all.

Then the next question is:—

Q. But, Mr. Race, did you ask for it, or did somebody come along?—

A. No, I did not ask for it, I was 'phoned at my house.

Q. Who 'phoned you?—A. Mr. Lawler.

Q. That was Bill Lawler?—A. Yes.

Now, I suggest that we go down about two-thirds of the way on the page and there is a question there:—

Q. Had he been living in Edmonton for long before the elections, do you know?—A. I hadn't seen him.

Q. You hadn't seen him?—A. No.

[Mr. Jules Castonguay.]

Then, down at the bottom he says:—

Not except that the ballots were delivered at the office and I took them in myself.

Q. That is, you mean, the ballot books?—A. The ballot paper.

Q. Who delivered them at the office?—A. Mr. Lawler himself.

Q. When you say Mr. Lawler you refer to Bill Lawler?—A. Yes.

Q. And he brought in the ballot paper?—A. Yes.

Now, we will miss a few and go down to after the Commissioner has question him here as to the kind of paper and Mr. Tighe says:—

Q. Was there any mistake about printing that name?

They are discussing the mistake in the ballot, of course. The answer is:—

Well, now, I don't remember clearly whether it was that name or not, I know there was a mistake in spelling some names.

Q. I understand there was a mistake in Kellner's name. What did you do with the ballots in which the mistake was made in the spelling of the name?—A. I didn't do anything with them, they had already been shipped away before the discovery was made.

Q. How many ballots were those?—A. I do not know at all.

Q. Who would be able to tell me in your office?—A. I do not know if anybody would.

Q. Did you give a receipt for the ballot papers when they were brought into you?—A. No.

Now there is the printer and Manager of the printer's concern who says he gave no receipt for the ballot papers when they were brought in. I want to trace that point because we will see how it works out with your affidavit when we get the copy. The next question is:—

Q. You did not give any receipt?—A. I wasn't asked for one.

Q. Well, when you shipped out these ballots in which the name was spelled wrongly did you get a receipt for those?—A. I cannot say, I don't remember. I don't remember if we had a receipt for those particular ones or not, we had a receipt for the total quantity but I don't think we had a separate receipt for the ones with the name misspelled in them.

Q. Who shipped out these ballots, Mr. Race?—A. We delivered them to the office where we were directed to and they were shipped from there.

Q. Who directed you to the office to where they were to be sent?—A. Lawler.

Q. Where was that office?—A. In a room in the old Merchant's Bank in the city.

Q. That is the present Bank of Nova Scotia?—A. Yes.

Q. And do you know what room that was?—A. No, I don't remember, I believe it was on the third floor.

Q. You think it was the third floor?—A. Yes, I think so; I cannot say definitely.

Q. Well, my friend says that Mr. Cross' firm, that is Cross, one of the candidates, that his firm occupied all the second floor of that building?—A. I believe they do.

Q. The entire second floor?—A. Yes.

Q. And were Mr. Cross's committee rooms on the third floor, upstairs?—A. I think so, yes.

Q. And do you know who was in that room to whom these ballots were given?—A. Yes, there was Mr. Robertson.

Q. That is W. R.?—A. Yes, and Mr. W. R. Wilson.

[Mr. Jules Castonguay.]

Q. Well, what Robertson was that. Oh, that was Robertson of the Robertson Safe Company?—A. Yes.

Q. And Mr. W. R. Wilson?—A. Yes.

Q. To whom were the ballots given?—A. Mr. Wilson.

Q. Have you ever been up on that floor?—A. Yes.

Q. Well, am I correctly informed that Mr. Cross' committee rooms were right opposite from this room into which these ballots were delivered?—A. I cannot say that.

Q. You cannot say that, no?—A. I do not know that he had a committee room up there.

Q. You just said his committee rooms were up there.—A. I said I delivered the ballots to that room there.

Now, we are going to miss about half a page and go to a question about half way down where he is asked: —

Did you get a receipt for those ballots?—A. Yes.

Q. From whom?—A. W. R. Wilson.

Q. Do you know W. R. Wilson—did you know W. R. Wilson was acting for Mr. Cross in any way?—A. No, no, I didn't know.

Q. You did not know?—A. No.

Q. You did not know what he was doing in the office of the Robertson Safe Company? A. Not except that he was in there: I understood he was having something to do with the election.

Q. Do you know that he was never employed by the Robertson Safe Company?—A. Not that I know of.

Q. You cannot say whether he was or not?—A. No.

Q. How many ballots did you deliver there?—A. Well, there were thirty five thousand altogether.

Q. how many did you deliver to Mr. Wilson?—A. Well, they were all delivered over there.

Q. The whole thirty-five thousand?—A. They were all supposed to go over there and we left them there.

Now, we will turn to page 453. They are discussing the number with the misspelled name. He was asked how many there were and he said:—

It might have been four or five thousand.

Q. And those ballots were expressed to Gagnon, were they?—A I guess they were, I delivered them to the office.

The Commissioner: They were not part of the 35,000?—A. Oh, yes.

Q. I thought those were all given to Wilson?—A Those were the first ones that came in; they were all delivered over there.

Mr. MACDONALD: Including those ones where the spelling was wrong?—A. Yes.

I just bring that out to show that there were the 35,000 only. Now, we will turn to the next page and get what Mr. William Wilson says. William F. I think it should be, it is William R. in this report. About two-thirds of the way down the page you will find this question:—

In what capacity were you acting?—A. Well, I did a lot of work for the Returning Officer, that is different kinds; I was with the Canadian Credit Men's at the time, working for them.

Q. That was for Mr. Gagnon, was it?—A. Yes.

Q. Were you ever employed by the Robertson Safe Company?—A. No.

Now, we will turn to page 457.

Q. Was it Bill Lawler who spoke to you over the 'phone?—A. No, I don't think so. It did not see Bill Lawler. I did not know he was there.

[Mr. Jules Castonguay.]

Q. So you do not know who it was who was speaking to you over the phone?—A. No.

Q. Do you know Mr. W. A. Deyl?—A. Yes.

Q. Was it Mr. Deyl who was speaking to you?—A. No, I don't think so; I think it was the postmaster there.

I want particularly to call the Minister of Justice's attention to that answer. When they were arranging for the printing of these ballots the witness says he thinks it was the postmaster who gave the instructions to print them, speaking of the postmaster from Lac la Biche. I mention it in justification of the request I made to you on a previous occasion. Now, we will turn to page 458. Part of the way down he says:—

Did you send any bill to anyone?—A. Well, I had a bill.

Q. You don't generally work for nothing?—A. Well, I did work for him before on several occasions.

I am bringing out about this payment now. Then we will turn over to page 459.

Q. What were you doing going through the country for him?—A.

Looking where the best places would be for polls.

Evidently he was an organizer for the election?

The WITNESS: An agent of the Returning Officer.

By Mr. Kellner:

Q. And also before stated he was working in Cross' committee rooms, as shown in the previous evidence which we have gone through?—A. Yes.

Q. So I think we have got this far in the evidence—if there is any doubt of it we can go into it more thoroughly—we have established that the ballots were sent to Cross' committee rooms in the first place?—A. According to that evidence, yes.

Q. And then we have taken the committee man who was in charge of Cross' committee rooms and he is out establishing the polls?—A. That is Wilson.

Q. Wilson, yes. (Reads):

Q. How much was that cheque that came to Mrs. Wilson?

That is the complaint, that he has not been paid and we might call attention to this: on the 19th of August, 1926, he says:—

A. Somewhere around about \$165.

Now, what I want to bring out to you Mr. Castonguay is this, taken from the evidence: he was in charge of Cross' committee rooms; he stamped those ballots there; he went out and organized the polls. This evidence had been submitted at this time and he had not yet been paid, until the 19th of August, when a cheque went through for \$165. I want to make it abundantly clear that there were lots of time to stop that cheque if there was anything considered wrong with his accepting money for his occupation there?—A. Yes. If the details of this—of the case had been submitted to us.

Q. Then we will go on and establish him a little more firmly in Cross' committee rooms. Turn to page 461. You will find a question there:—

Q. Now, were you assisting Mr. Cross' committee at all in this election?—A. Oh, yes.

Q. You were assisting them?—A. Yes, at least —I was around there most of the time.

Q. Where was this committee room?—A. I don't know.

Q. You don't know?—A. No, I didn't know there was any particular place.

Q. Well, where did you do your work?—A. On the ballots?

Q. No, when you were—you say you assisted them in the election.—A. Oh, I was around that building all over.

Q. You were around all over?—A. Oh, I was looking—I looked after getting the speakers and things of that kind.

Now, I think that fairly well established him as Cross' committee man, and keep in mind that he had the control of the stamp and the ballots. On the next page the question is asked:

Q. I mean did you do any work in connection with the election up there, beyond stamping the ballots?—A. People would call me up, and that sort of thing.

Q. Where did they call you up?—A. At Robertson's office there.

Q. Did they call you up at any other office?—A. No.

Q. And if you were there so much you would know pretty well who were occupying these rooms at that time?—A. Yes.

Q. You do?—A. Yes.

Q. And you swear positively, as I understand it, that Mr. Cross' committee had no committee rooms up there on that floor?—A. Well, it is not a regular committee room, there was a regular committee room.

Q. There was a regular committee room, but were they using any room up there?—A. No.

Q. Mr. Cross' supporters?—A. They used to drop into Mr. Robertson's office, that is all.

Q. Were they using any other room besides that?—A. Not that I know of.

Q. Now, you swear positively that so far as you know Mr. Cross' supporters were not using any room up in the Bank of Nova Scotia building?—A. What do you mean; I don't quite get that.

Q. I mean just what I said; Mr. Wilson, you swear positively that Mr. Cross' supporters had no room up there, were using no room in connection with the election?—A. Well, I do not know whether they—they were always up and down, there was always fellows going and coming there.

Q. Into Fred Robertson's room?—A. Yes.

I don't know that we need go on with that. I think we have that pretty well established, and I just want to introduce a little matter in connection with the delivering of those ballots. Have you got page 527 there?—A. No, 499 is the last page in this volume. I have page 527 now.

Q. Half way down the page. There may be a difference in the paging of them.—A. Yes, I have it. There are two 527's.

Q. (Reading):

Carl Bottolfs was duly sworn and testified as follows:—

Mr. TIGHE: Were you acting as agent for anybody at the Dominion Election on the 29th of October, 1925?—A. I was scrutineer for Mr. Kellner.

Q. One of the candidates?—A. Yes.

Q. At what poll?—A. Woodgrove, number 26.

Q. Do you remember any car coming that day with strangers in it?—A. Yes, sir.

Q. How many were in the car?—A. Two men.

Q. Do you know who they were?—A. No, I just know they said one young fellow was Charlie Cross' son.

Q. Charlie Cross' son?—A. Yes, I never saw the man before.

Q. What age of a boy was he?—A. Well, I imagine he would be somewhere around 27 or 28. I did not pay any particular attention so far as that goes.

[Mr. Jules Castonguay.]

The CHAIRMAN: Are you reading from the evidence taken before Mr. Justice Clarke, Mr. Kellner?

Mr. KELLNER: Yes, I am on Justice Clarke's now. We will miss two or three questions there and then you will notice this one:—(Reads):

Q. Well, now will you tell us the conversation, what happened when they came there?—A. Well, they said we didn't have quite enough ballots for the names on the list.

Q. Yes?—A. So they left—I think it was two pads of ballots, I think it was two, I know it was one.

The point I want to bring out there is that this fellow had been going around with a car leaving ballots at various polls. I can mention many other polls but I presume that possibly will not be necessary for our purpose. I want to ask you if you consider this is a fair summary of the case so far: the ballots were printed by a printer who was unknown to the Returning Officer; there were mistakes in the names of two of the candidates out of three on part of the ballots; they were returned to Charlie Cross' committee rooms and distributed from there; that an agent was going around from poll to poll in a car leaving ballots with the Deputy Returning Officer. Do you consider that a fair recital of the evidence which we have read now?

The WITNESS: It is, yes.

By Mr. Kellner:

Q. Now, do you remember this statement? I think it comes from Mr. Biggar?—A. It is a copy of the correspondence, yes.

Q. I will ask you to take a piece of paper and we will do a little figuring here. He says the ballot papers spoiled numbered from 49,001 to 51,916. How many sheets would he have in that?—A. 2,917.

Q. 2,915, is it not?—A. 15, yes.

Q. Then he says a little further down that sheets from 51,917 to 51,978 were spoiled. How many were spoiled then?—A. 61.

Q. Then, how many good sheets would he have? If he had 2,915 before and he spoiled 61, he would have the difference between the two, would he not, which would be 2,854. Now, each sheet prints twelve ballots, does it not?—A. No, if there were 61 spoiled, I am not taking those in that 2,915. They are a different number.

Q. I do not think so; if you read the letter, I think you will find that that was all the papers sent by them?—A. There was more paper than that sent to him. There were 4,000 sheets sent to him.

Q. I would be very glad to get a copy of that affidavit.—A. It is stated in the affidavit that there were 4,000 sheets of ballot paper sent to the Returning Officer, similar to this sheet. He returned 1,022 sheets; one-third; in good order. And he spoiled 61. And he printed on 2,916.

Q. And there were 12 ballots?—A. There are 12 ballots to a page.

Q. How many ballots would he get out of that?—A. 35,000.

Q. Work it out and see?—A. It is worked out here to the exact figure. That is 35,000.

Mr. KELLNER: Now, I am through with the witness for a while, if any other member of the Committee wants to question him.

By Mr. Kennedy:

Q. Mr. Castonguay, you stated the other day in your evidence, at page 13 of the typewritten copy:

To my mind the whole thing hinges on the appointment of the Returning Officer. If the Returning Officers were chosen from amongst

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provincial officers, such as sheriffs and registrars, that to my mind would be a safeguard against the repetition of these happenings in Athabasca. We have had provincial officers acting as Returning Officers in several elections, and their work was always number one.

Will you amplify that a little? What is wrong with the present system? I should think that in your mind you must have been comparing the present system of selecting returning officers with a system that had been tried out somewhere else. Will you tell us what is wrong with the present system?—A. Well, provincial officers are chosen. There are provincial officers appointed at every general election, in some electoral districts.

Q. Where, for instance, give us an example?—A. Throughout the Maritime Provinces, I think. In New Brunswick, I think they always appoint their sheriffs.

Hon. Mr. CANNON: And in the province of Quebec.

The WITNESS: In Ontario, there are often sheriffs and registrars appointed.

By Mr. Kennedy:

Q. Now, what is the weakness in the present system here that you refer to when you say: "to my mind the whole thing hinges on the appointment of the Returning Officer"?—A. A provincial officer, such as a sheriff or a registrar generally knows the procedure better and is generally not a partisan.

Mr. MACDONALD (Cape Breton South): Would that be possible, to get enough of these officials in that part of Canada?

Mr. KENNEDY: That is what I am coming to.

By Mr. Kennedy:

Q. In this case was it the partisanship of the Returning Officer, that in your judgment was the basic thing in connection with this trouble in Athabasca, or was it one of the basic things?—A. It was one of the basic things, because the Returning Officer did not seem to be very bright.

Q. Do you think from the report of Mr. Justice Clarke that the Returning Officer was hopelessly biased in favour of the candidate of the party that appointed him?—A. Yes, from that report I would say that.

Q. Now, if provincial officers were appointed, that is a certain officer in a certain constituency was appointed the returning officer, he would get away from it because he might be appointed by anybody; that is he would not necessarily be a partisan belonging to the party that was appointing him?—A. No, he might be on one side of politics or on the other side.

Q. And that is the reason you believe that would be a safeguard?—A. Not only that, but I have confidence in provincial officers.

Q. They would have something at stake if they were found out in wrong conduct?—A. Yes, they know the penalties and they would have to suffer more than an ordinary individual if they were found out.

Q. I notice in the Election Act, Mr. Castonguay, that your appointment lifts you up above the realm of partisanship altogether, does it not? I was thinking of the Section dealing with the appointment of the Chief Electoral Officer?—A. Section 18.

Q. You are appointed by resolution of the House of Commons, and removable only from cause in the same manner as a Judge of the Supreme Court of Canada. Notwithstanding, that you are placed above partisanship, do you or do you not think you are handicapped in checking or preventing discrimination in elections or unfairness because of the present system, in some districts or some parts of Canada of appointing returning officers?—A. The trouble is that these things are not reported to us. What takes place on polling day—

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it is almost impossible for complaints to be made to us. I have always found that whenever a complaint has been made—a specific complaint—I have always found that it is easy to get the matter straightened up.

Q. Have you made a study then of the question so far as appointing provincial officers is concerned for returning officers, so that you could tell the Committee what officers you would recommend should be appointed, say in the province of Alberta? You must have some provincial official in mind?—A. We have studied it and have come to the conclusion that the sheriffs and registrars would cover the case in every rural district.

By the Chairman:

Q. Are you assuming that they are available and can be secured?—A. Yes.

Q. In some cases there are not enough sheriffs and registrars to fill all the positions?—A. Yes, that is in Montreal and Toronto.

By Mr. Kennedy:

Q. There is another suggestion you made the other day regarding the various candidates getting together, or the various parties locally and agreeing on a returning officer. Would you amplify that and just explain what you mean. I do not know whether I got it clearly?—A. What I had in mind then was the selection of the returning officers in large cities like Montreal and Toronto, where it is impossible to get enough sheriffs and registrars to fill the position of returning officer. I suggested that in places like Montreal and Toronto the political parties should get together and agree upon some men to act as returning officers.

Q. Who would get together?—A. The leaders of the different parties. It was a mere suggestion; I do not know whether it is workable or not.

Q. I was wondering how far you had developed it, whether you had given it consideration enough to really make a recommendation?—A. The thought just struck me at the time, that is all.

Q. There was another suggestion made the other day of appointing District Court Judges, if I remember it correctly, as returning officers?—A. I did not make that suggestion.

Q. What do you think of it?—A. I think you would not have enough judges to go around.

Q. There is quite a number of them.—A. There may be, in your province, but take all the provinces, Quebec, and in the province of Ontario.

Q. Do you think you could find enough amongst the district court judges and amongst the sheriffs and registrars combined?

Hon. Mr. CANNON: That is not provided for by law. The judges could not very well act. They have other duties in connection with the Elections Act.

Mr. JOHNSTON (Long Lake): In western Canada, in many constituencies we have not got a judge, a sheriff or a registrar.

Hon. Mr. LAPOINTE: That could not be done.

By Mr. Kennedy:

Q. What do you think of the suggestion of having the judges in the provinces select the returning officers for all the constituencies, acting together and doing so?—A. It would not be a bad way to proceed.

Q. It would not be what?—A. It would not be a bad way to proceed.

Q. You say it would not be a bad way to proceed?—A. No, if they wanted to ensure getting impartial returning officers.

Q. I do not know whether there is any objection to that in law or not, but possibly the law could be amended. I would like to ask you some questions regarding the various penalties in the Election Act. We have Section 27, misfeasance and malfeasance and penalties. That section, as I understand it, deals with the right of a person aggrieved to sue a returning officer, and as far as that goes, I presume it is all right.

Mr. KELLNER: That is the old Act.

The WITNESS: There is no change in the new one in that respect.

By Mr. Kennedy:

Q. I understand that simply deals with the right of a person aggrieved to sue an election officer and thereby get damages and that is all it covers. Then I think it is Section 86 of the Act?—A. 86 of the old?

Hon. Mr. LAPOINTE: Section 27 in the new Act.

By Mr. Kennedy:

Q. Will you turn then to Section 80. This deals with a lot of offences?—A. 81 of the new Act.

The CHAIRMAN: We will proceed with the new Act now.

The WITNESS: I think Mr. Kellner has the old Act before him.

Mr. KENNEDY: I have both Acts, and I am dealing with the new Act, Section 80. We have there a penalty for a member sitting in contravention and so on, page 158, the fourth paragraph, default in delivering a statement, furnishing false statements and so on. In this whole group there are a number of indictable offences and then in Section 81, bribery, treating, undue influence, personation and so on. In your judgment should there be some official somewhere who would be saddled with the responsibility of checking up those corrupt practices under the Act and not leave it as it is at present, to a defeated candidate or a person aggrieved or ten electors in the riding, as we have it under the present Corrupt Practices Act. My idea is this, the defeated candidate starts in to up-set an election, he is immediately branded as a person who is sore and looking for revenge. In the case of Athabasca, twenty-five electors got together, put up \$1,000 and had a petition presented to the House of Commons to ask for an inquiry under the Corrupt Practices Act. Now, it seems to me that that is not fair, to create all these offences and then saddle the responsibility of enforcing all these provisions, in a practical way at least, on a defeated candidate or person aggrieved or twenty-five electors in the constituency.

Hon. Mr. LAPOINTE: But, Mr. Kennedy, any person can do it, under the law.

Mr. KENNEDY: I suppose any person could prosecute under the Customs Law, for instance; but I think someone should be saddled with the responsibility of checking up offences under this Act.

Hon. Mr. CANNON: Mr. Kennedy, if you will examine Section 18, I think it is the duty of the Chief Electoral Officer as it reads now to see to it that the Act is properly observed.

Mr. KENNEDY: Which part of Section 18?

Hon. Mr. CANNON: Subsection B, which provides that he shall exercise general direction and supervision over the administrative conduct of elections, with a view to ensuring the fairness and impartiality of all election officers, and compliance with provisions of the Act.

The WITNESS: During an election.

Mr. KENNEDY: Yes, during an election.

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Hon. Mr. CANNON: It is not only during an election. He has got to see to it that the law is properly observed during an election, and if he sees that it has not been then he is to report. Now, was it your point that he ought also to prosecute? There is nothing in the Act to prevent him doing so, but you say it should be expressly stated.

Mr. KELLNER: He did not report in this case.

Hon. Mr. CANNON: I am talking about the law as it is to-day.

Mr. MACDONALD (Cape Breton South): It is never brought to his attention, as I understand it.

Mr. CANNON: It is for him to find out. It is his duty.

Mr. MACDONALD (Cape Breton South): Take the case of Athabasca. The Chief Electoral Officer is here in Ottawa. How can he possibly be in any of those divisions?

Hon. Mr. CANNON: I realize the difficulty, but one duty of the Chief Electoral Officer is to see that the Act shall be observed by all his officers. Now, how it should be done is another matter.

Hon. Mr. LAPOINTE: Mr. Kennedy is suggesting that there should be someone in charge.

Mr. KENNEDY: The Chief Electoral Officer is in charge now, if we accept the view of the Solicitor General.

Hon. Mr. CANNON: It is only an expression of opinion. These three subsections, A. B. and C. stating his duty, could be amended.

Mr. KELLNER: If I may interrupt, I do not want the impression to get abroad that he was not notified in any way about this. In fact I have a lot of correspondence with the Chief Electoral Officer, and I would like to read one letter to show the extreme interest he took in it. On December 26, 1925, I wrote to the Chief Electoral Officer, Mr. O. M. Biggar, Chief Electoral Officer, Ottawa, as follows:—

I wish to thank you for your favour of recent date, in which you inform me of the number of ballots printed in the Athabasca Constituency and also supply a sample of the paper they were printed on. Might I now inquire if you have a copy of the affidavit, filed by the printer on delivery of the ballots; and if you have, might I have a copy of it? Would you also inform me what extenuating privileges the returning officer would have of appointing someone else to accept delivery for him. Perhaps it would be clearer if I inquired who might reasonably be barred from acting in such a capacity, if the returning officer is authorized to transfer this duty to another. To cite a hypothetical illustration: would the returning officer be legally entitled to appoint someone in my committee rooms, as receiver of, and custodian of the ballots?

In regard to the sheets of paper that were reported as "spoiled," what would become of these, would they be returned to you, or are they simply transferred to the waste basket?

Now, his answer to that is this:—

There is nothing in the Act to prevent the returning officer delegating the duty of receiving the ballots from the printer, and indeed most returning officers probably do so, selecting some one in their employ in whom they have full confidence. It is impossible to make any useful or exhaustive list of the persons or classes of persons whom they should not entrust with this responsibility, though they would certainly be acting unwisely if they selected any one having any connection with any party organization.

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There, his statement is that they would be acting unwisely to appoint anyone having any connection with any party organization.

Mr. MACDONALD (Cape Breton South): Did you ever tell the Chief Electoral Officer the exact facts of the Athabasca election, so as to put him on his guard?

Mr. KELLNER: The facts were not known of course, until the investigation was held. My experience with the Chief Electoral Officer was that I could get absolutely no assistance from him and I can safely go as far as to say that.

Hon. Mr. LAPOINTE: I see the reporter is taking this down. Surely, that is not evidence? A conversation between Mr. Kellner and Mr. MacDonald?

The CHAIRMAN: Let us proceed regularly.

Mr. KENNEDY: I would like this matter cleared up, Mr. Chairman. I would like to get the Chief Electoral Officer's opinion on this: he can exercise general direction and supervision over the administrative conduct of an election with a view to ensuring the impartiality of all election officers and compliance with the provisions of the Act.

By Mr. Kennedy:

Q. Is it your business to look for irregularities and failure to comply with all the provisions of this Act?—A. Are you reading from sub-section B?

Q. Yes.—A. Well, it must be read with sub-section A.

Q. Let us get it clear, then, because I think the responsibility should be saddled somewhere. Give us your interpretation of it then?—A. Reading from Section 18:

(a) Throughout every election properly direct all returning officers and, in case of incompetency or neglect of duty on the part of any of them, recommend his removal and the appointment of another in his stead;

(b) Exercise general direction and supervision over the administrative conduct of elections with a view to ensuring the fairness and impartiality of all election officers and compliance with the provisions of this Act.

That is throughout the election.

Q. That is not still throughout the election?—A. It is "to ensure the fairness".

Hon. Mr. CANNON: It cannot only be throughout the election. Has not that been changed? The returning officers were appointed permanently, for a while, were they not.

The WITNESS: They are still appointed permanently.

By Hon. Mr. Cannon:

Q. They still are? Or are they not only appointed for the election?—

A. They are a permanent appointment at the pleasure of the Governor-in-Council.

Q. If they are permanent officers, your duty cannot be restricted to only throughout an election, because you are supposed to exercise general supervision over all the election officers and if they are permanent officers you have to supervise them all the time.

Hon. Mr. LAPOINTE: Still, I think, if you want to put the responsibility on him, it should be stated more clearly there.

By Mr. Kennedy:

Q. I would like to put it this way, Mr. Castonguay. Under Sub-section 7 of Section 80, a penalty is imposed if a member is sitting in contravention of the clause providing for a return.

[Mr. Jules Castonguay.]

If he sits or votes in contravention of this enactment he shall forfeit \$500 with costs for every day on which he so sits and votes to any person who sues therefor.

Then, suppose a member sat in this House of Commons without making that return, and you found out about it, would it be your duty to go after him and see that he paid that \$500, or whose duty would it be? Suppose it came to your attention by conversation with someone else, or a newspaper article, or a friend or enemy of the member pointed it out, who would be responsible for getting after him in connection with that offence?—A. It is stated in the Act.

Q. Well, where is it?

Mr. KELLNER: Who initiates the proceedings?

By Mr. Kennedy:

Q. Is it sub-section 7 of Section 80?—A. It says that he shall forfeit \$500 with costs for every day he sits or votes "to any person who sues therefor".

Q. I see. Well, I was unfortunate in my selection. Take Section 9.

The CHAIRMAN: Mr. Kennedy, you might as well make that clear. I know what you want. It is open to any one to sue, but is it the duty of the Chief Electoral Officer, to take this action himself if he is convinced of the fact that the law has been infringed on that point? Is that what you mean?

Mr. KENNEDY: That is the point.

By the Chairman:

Q. What is your answer to that, Mr. Castonguay?—A. In this case I have no other duty to perform than an ordinary individual, "any person who sues therefor".

Mr. KENNEDY: Take sub-section 9.

The CHAIRMAN: Just a moment. Did you understand Mr. Castonguay's answer?

Mr. KENNEDY: That is a specific case where it says to any one who sues therefor. I want to deal with the general position regarding what candidates must do or cannot do. There are a lot of sections here showing what are corrupt practices and what are indictable offences, and I am wondering if the Chief Electoral Officer has any responsibility in case any of those corrupt practices come to his attention. If he has any responsibility, has the Chief Electoral Officer to initiate proceedings, if no one else does?

The CHAIRMAN: All right, proceed with that.

The WITNESS: I do not think so.

By Mr. Kennedy:

Q. You do not think so?—A. No.

Q. Suppose you find, for instance, that a false declaration has been made regarding election expenses, would you not consider it your duty?—A. I would not consider it my duty.

Q. Whose duty would it be?—A. Well, it is stated throughout the Act.

Hon. Mr. LAPOINTE: You might look at Section 95.

Hon. Mr. CANNON: If I understand Mr. Castonguay rightly, he says that he has the power to name the person but he does not consider that it would be his special duty to proceed.

The WITNESS: Not as Chief Electoral Officer.

Hon. Mr. LAPOINTE: If you will refer to Section 94 on the recovery of penalties and forfeitures and to sub-section 3 of 97 on the costs in case of private prosecution, that shows the procedure.

By Mr. Beaubien:

Q. If I may interrupt and ask this question; under what section do you make your return, Mr. Castonguay?—A. Sections 79 and 80.

Q. Under Section 80?—A. Section 79.

Q. The Act only allows the candidate to make \$500 expenditure as his personal expenditure?—A. That is what the Act allows him, yes.

Q. Do you think that is enough? For instance, if I have a meeting in a certain division and when I arrive there, I am confronted by the man who owns the hall who says that before the meeting proceeds he must have payment of his rent; my agent is not with me and I pay that out of my own pocket. I cannot put that in my election expenses as a personal expenditure?—A. No, only the money paid by your agent.

Q. But suppose a case like that occurs, could you offer something to remedy that?—A. Well, by an amendment you could raise the amount of \$500; raise the limit.

Q. If you raised the limit you would have to make some provision for a case of that kind? I know things of that sort have happened with me.

The CHAIRMAN: In that case the candidate would have no right to pay. All such expenses should be paid through his agent. Therefore, it does not matter if you raise the limit. If a candidate pays for the rent of a hall he is infringing the law.

The WITNESS: If the limit was raised to \$1,000 that would give him some play.

Hon. Mr. LAPOINTE: He has the right to pay up to \$500 for personal expenses.

The CHAIRMAN: But the rent of a hall would be election expenses, and all election expenses must be paid by the agent.

The WITNESS: I think that could be treated as a personal expense.

Hon. Mr. CANNON: The general principle is that no payment shall be made except through the agent. No payment except personal expenses, and his personal expenses are not to exceed \$500.

Mr. DUFF: Must he keep his agent with him all the time?

Mr. BEAUBIEN: In the instance I have stated, if I were to pay for the rent of the hall rather than forego the meeting, then under the Elections Act, I am liable to contestation and to be unseated. I interjected that question because Mr. Kennedy was dealing with that section of the Act and I should like to find out if there is any possible way of amending that?

The WITNESS: It is possible to amend Section 79 all right.

The CHAIRMAN: I think I can tell you, Mr. Beaubien, that in such a case if your agent were not there and you paid the amount yourself, you would be infringing the law and you might be contested. That is one of the flaws in this law and I think there are probably many others.

Mr. DUFF: Why should the candidate have to pay for halls? Why should they not be free?

The CHAIRMAN: Proceed, Mr. Kennedy.

By Mr. Kennedy:

Q. When did the first report of the irregularities in Athabasca come to you?—A. I think—we did not get anything specific—we got reports—the first was in November, the 9th.

Q. What was that?—A. A letter from Mr. Kellner.

Q. You received then an order for the production of certain documents, from Mr. Justice Walsh, on December 9, 1925?—A. I gave that before. That is the date, all right.

[Mr. Jules Castonguay.]

Q. You had a pretty good indication at that time that there was something wrong with the proceedings?—A. Well, to tell you the truth, Mr. Kennedy, we get complaints from a good many districts, and it has been in the past that when investigations are made we find that many complaints are not well founded.

Q. What was the first indication that you had that there was something seriously wrong in Athabasca?—A. I think Mr. Kellner's letter of November 9, and that letter was included in the Chief Electoral Officer's report to the Speaker.

Q. But did either Colonel Biggar, or yourself officially do anything else with regard to the matter, to inquire into the irregularities, other than to report to the House of Commons?—A. We did not inquire. There was no inquiry made.

Q. You are satisfied now, of course, that there were corrupt and illegal practices on a large scale in Athabasca?—A. Yes.

Q. Do you think it would help in the prevention of corrupt and illegal practices if this Committee were to recommend that where corrupt and illegal practices have extensively prevailed in an election the seat should be declared vacant?

Hon. Mr. LAPOINTE: By whom?

Mr. KENNEDY: I do not know by whom.

The CHAIRMAN: But, Mr. Kennedy, the answer to that question is in the law. You want Mr. Castonguay to explain the law and state whether a change in the law is necessary.

Mr. KENNEDY: No, the answer is not in the law, as I understand it to-day. The inquiry proved that there were corrupt and illegal practices in Athabasca. There is no provision which would prevent the candidate elected by those means from still sitting in the House, if it had not been for the dissolution of 1926.

The CHAIRMAN: There is the Controverted Elections Act.

Mr. KENNEDY: The inquiry was not taken under that Act.

Hon. Mr. CANNON: If the election had been contested and the facts proven before Mr. Justice Clarke had been proven in court under the Controverted Elections proceedings, the seat would have been declared vacant.

Mr. KENNEDY: There are the two methods by which you can inquire into corrupt and illegal practices: under the Controverted Elections Act, where the candidate proceeds to unseat the other candidate and when he has done that he is through. But this enquiry under the Corrupt and Illegal Practices Act is largely an attempt to get rid of corrupt practices, without having the specific object of ousting the elected member from his seat. It is with the idea of prevention and I should like to have Mr. Castonguay's opinion if an amendment as to the penalties and so on would be of use.

The CHAIRMAN: The law gives you the answer to that question. Under the Controverted Elections Act recommendations can be made regarding the prosecutions and I think as far as claims under the Act are concerned also.

Hon. Mr. CANNON: I think Mr. Kennedy, the object of the Corrupt Practices Act was to meet the case where a knowledge of the illegal acts only came after the date of the inquiry to contest the election. That probably was the object of the second Act.

Mr. KELLNER: The time is limited within which you can make an application to Parliament.

Hon. Mr. CANNON: The time runs from the date when the facts come to your knowledge.

The CHAIRMAN: Yes, that is right.

[Mr. Jules Castonguay.]

MR. KENNEDY: As I understand it, we are dealing with the question of the report of Mr. Justice Clarke and how the findings of that report may be used to prevent a repetition of those corrupt practices and I am asking the Chief Electoral Officer, if this penalty were added to, would it be a deterrent?

THE WITNESS: It might be added as an extra penalty.

By Mr. Kennedy:

Q. Do you think it would be good or bad?

HON. MR. LAPOINTE: You may ask that question of the Chief Electoral Officer—

MR. KENNEDY: It is just his opinion.

HON. MR. LAPOINTE: But it is a question of principle as to whether it should be asked from the Chief Electoral Officer.

By Mr. Kennedy:

Q. I would like to get an answer.—A. I have answered it.

Q. What is your answer? I did not get it?—A. I said it might be added.

Q. But that is not an answer. Would it, in your judgment, prevent or tend to prevent a repetition of such acts?—A. Well, the more drastic the penalties are, it would in my judgment prevent.

Q. Is your answer that you think it would tend to prevent, or that it would not?—A. My answer is that it would tend to prevent.

HON. MR. CANNON: Mr. Kennedy, if you will allow me to interrupt; was there not, a few years ago, a provision in the law which enabled you to disfranchise the whole constituency when there was wholesale corruption?

THE WITNESS: I do not remember that.

MR. KENNEDY: That was done in the Old Land.

HON. MR. CANNON: I do not think it is in the present Act. But I think in the old days if there was wholesale corruption they could disfranchise the constituency.

MR. DUFF: I move that the Committee rise.

THE CHAIRMAN: It is moved that the Committee rise, but before the Committee rises we will hear Mr. Lemaire who will produce the Order-in-Council.

The witness retired.

E. J. LEMAIRE re-called.

THE WITNESS: (Produces Order-in-Council P.C. 1309 a certified copy.)
(The Clerk of the Committee reading):

P.C. 1309

CERTIFIED to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by the Deputy of His Excellency the Governor General on the 12th August, 1925.

The Committee of the Privy Council, on the recommendation of the Secretary of State, advise that, under the provisions of Section 3 of Chapter 42, 1925 "An Act to amend the Dominion Elections Act," the following be appointed Returning Officers for the Electoral Districts mentioned:

Electoral District				Name, Address, etc.			
Province of Alberta							
*	*	*	*	*	*	*	*
Athabaska,				Isaac Gagnon, Donatville,			
*	*	*	*	*	*	*	*
(L.S.)				(Sgd) E. J. LEMAIRE,			
[Mr. E. J. Lemaire.]				Clerk of the Privy Council.			

The CHAIRMAN: Have you any questions to ask Mr. Lemaire on that?

Mr. KELLNER: You are dealing with that particular question?

The CHAIRMAN: Yes.

Mr. KELLNER: No, I have no questions on that. There is one other matter, Mr. Chairman, before you go. At the previous meeting, I think Mr. Castonguay promised to have a copy of the requests for the payment of these officials.

Mr. CASTONGUAY: I have a list of the inquiries that we received. Here is the list.

Mr. KELLNER: I think that was later changed. Mr. Hanson moved that the letters containing the requests be included, and I understood that that passed.

Mr. CASTONGUAY: I do not remember that.

Mr. DUFF: Have you put the motion, Mr. Chairman?

Several HON. MEMBERS: Carried.

The CHAIRMAN: When shall we meet again?

Mr. KELLNER: The Auditor General is to be here, I think.

The CHAIRMAN: We will meet to-morrow at 11.00 o'clock.

The witness retired.

The Committee adjourned until Wednesday, May 23rd, at 11.00 o'clock.

COMMITTEE ROOM No. 375.

House of Commons,

WEDNESDAY, May 23rd, 1928.

The Select Standing Committee on Privileges and Elections met at 11 o'clock a.m., the Chairman Mr. J. J. Denis (Joliette) presiding.

The CHAIRMAN: We have ten members here now, so we will proceed with the reading of the minutes.

(Minutes read.)

The CHAIRMAN: Now, I think these minutes should be corrected, where they say that the Committee rose. I understand that a motion that the Committee rise means forever. That was not the meaning I attached to it when I said that the Committee was adjourned until to-morrow, when the mover said the Committee would rise, therefore I suggest that that should be made to read "adjourned" instead of "rise".

Mr. MERCIER: I move the adoption of the minutes, as amended.

Motion agreed to.

The CHAIRMAN: We were proceeding yesterday with the examination of Mr. Castonguay.

JULES CASTONGUAY recalled.

Mr. KELLNER: The first thing, Mr. Chairman, is, that I want a little explanation of the evidence.

By Mr. Kellner:

Q. Mr. Castonguay, on page 13 you made this statement: "I understand that in printing they print a whole sheet at a time, and for that reason they have to make half a dozen cuts, and my explanation of this difference in the spelling is that there was a mistake in one of the cuts." We were speaking about printing the ballots?—A. We were speaking of the printing of the ballots.

[Mr. Jules Castonguay.]

Q. I take it that what you mean is that they would have possibly six different forms set, and they would print them all at one time, and there would be five good ones and one bad one, according to the way you put it before the Committee?—A. That is according to my recollection of it.

Q. I wanted just to correct that impression. I will just read this from page 471:

Mr. John Edward Clark, being duly sworn and examined, testified as follows:—

Q. You were employed by the Edmonton Printing and Publishing Company?—A. Yes.

Then on page 472 a question was asked:—

Q. Who noticed this mistake in Mr. Kellner's name?—A. I do not know who it was, it was somebody phoned, it came on the telephone, that is all I know.

Q. That was all?—A. Yes.

Q. And then when that happened the correction was made, was it?—A. Yes.

Q. And you cannot state definitely, but you think approximately five hundred ballots were printed erroneously?—A. No, I cannot say.

There is no question from that evidence that there were a certain number incorrectly printed, the forms were changed, and they spelled the name correctly from then on?—A. According to that evidence.

Q. Now, Mr. Castonguay, we asked for a return showing the requests that payment be made, and you have given us that up until, I think, the middle of March?—A. From the beginning until March 17th. The enquiry was received between those dates.

Q. After that time you received quite a number more?—A. After that time there were several received.

Q. Could we have a copy of the ones you received subsequent to the middle of March, in fact a copy of all you have on the files?—A. Certainly.

Q. When could we have that?—A. At the next sitting of the Committee.

Q. Do you recall poll No. 169, where the poll book was destroyed?—A. Yes. There is something in the file about that.

Q. I noticed that there was something in the statement we got yesterday, that these payments were evidently paid. The Act states that where any of the documents are missing that way the official must not be paid, that is, the deputy returning officer; you recall we discussed that the other day?—A. There is something in the Act to that effect. That is all right, Mr. Kellner, I will find it as we go along.

Q. I just wanted to find out whether, before the Auditor General sent that payment, he consulted with your Department as to whether he should pay it or not?—A. There was some correspondence about that poll.

Q. Would that be on this file?—A. No.

Q. What file would that correspondence be on?—A. It is on our general files for Athabaska.

Q. I would have thought that that would have been one of the ones they asked for; unquestionably Mr. Simon must have renewed his request, because I pointed out in my correspondence with Mr. Biggar that that account should not have been paid.—A. On December 28th I wrote the Auditor General as follows:—

I have a report from the returning officer for Athabaska that the deputy returning officer for poll 169 failed to return his poll book in the proper envelope and is apparently unable to produce it now. It would appear, therefore, that this deputy's fees and expenses should be forfeited in accordance with section 66 (9) of the statute.

[Mr. Jules Castonguay.]

Q. You say "failed to return his poll book in the proper envelope." The proper way to express it would be that he failed to return it at all?—A. Yes, that he failed to return it at all.

Q. Then under the Act he should not be paid?—A. He should not be paid.

Q. Did the Auditor General ask you before he sent the cheque?—A. I do not think there is any other correspondence about that matter on the file.

Mr. KELLNER: I think these are all the questions I have to ask.

By Hon. Mr. Lapointe:

Q. You are under the control of Parliament?—A. That is the way I understand it, sir. I am responsible to Parliament, not to the government.

By the Chairman:

Q. Not to any government?—A. No, sir.

The CHAIRMAN: Do you want to hear the Auditor General?

Mr. KELLNER: There are just a few questions I wanted to ask him.

By Hon. Mr. Elliott:

Q. In regard to section 75 of the Dominion Elections Act, Mr. Castonguay, you are familiar with that?—A. Yes.

Q. It provides that the chief electoral officer shall make a report to the Speaker of the House?—A. Yes.

Q. Suggesting what amendments are desirable for the more convenient administration of the law, "and each candidate and the agent of each candidate shall have the right to send written statements to the chief electoral officer, suggesting such changes and improvements in the law as to such person may seem desirable, and to make written complaint of the conduct of any officer employed in such election". First of all, each candidate and the agent of each candidate shall have the right to send written statements to the chief electoral officer, suggesting such changes and improvements in the law as to such person may seem desirable; have you received many communications suggesting desirable changes in the Act?—A. After the general election of 1925 we received several communications.

Q. Where are they?—A. They are contained in the chief electoral officer's report to the Speaker.

Q. Have we that here?—A. No. I had it with me yesterday, but I did not bring it up to-day.

By Mr. Kellner:

Q. It will be in the distribution office?—A. I do not think that report was printed.

By Hon. Mr. Elliott:

Q. You do not think that report was printed?—A. No, sir.

Q. You had it here yesterday?—A. I had a typewritten copy.

Q. It seems to me desirable that this Committee should look at those recommendations. We will have the report produced for inspection by the Committee again?—A. Yes, sir.

Q. Do you recollect offhand—perhaps I should not ask you this, because if we are going to refer to it I do not suppose I should ask your recollection about it—but do you recall particularly any of the recommendations made in that report as to desirable changes in the Act?—A. Well, there were several; I would not remember any in particular.

Q. If the report is going to be produced, there is no object in following that up. Do you recollect whom those complaints were from?—A. We received complaints and suggestions from at least twenty-five per cent of the electoral districts.

[Mr. Jules Castonguay.]

Q. After considering those complaints, the chief electoral officer reported them to the Speaker?—A. He reported them to the Speaker and in his report he suggested any amendments that he saw fit.

Q. He did suggest some amendments, in the report?—A. He suggested several amendments.

Q. Do you recollect any written complaints received after the 1926 election?—A. There were only a few complaints.

Q. Have you those?—A. They are also embodied in the report to the Speaker on the general election of 1926.

Q. It seems to me desirable, if we are going to serve any useful purpose in this Committee, that those complaints and recommendations should be considered. Have you anything to say with regard to recommendations, to make the Act more workable?—A. In what particular, sir?

Q. To meet the complaints that have been made?—A. Well, the suggestions made by the chief electoral officer at that time, I concurred in them all.

Q. You concurred in them all?—A. Yes.

Q. I suppose you still believe that certain changes would improve the Act?

A. I still believe that it would be advisable to make all the amendments that have been suggested in those two reports.

Q. Whatever amendments to the Act you have already concurred in, you still believe in?—A. Yes.

Q. And you still think those amendments should be made?—A. Yes.

Q. Do you still believe that if those amendments were made it would aid you in the discharge of your duties as chief electoral officer?—A. Well, my opinion would be that it would be more convenient for the election officers to discharge their duties.

Q. You think it would aid the various election officers under you?—A. It would aid them. There are some that involve quite a lot of changes, but from the experience of the last two elections they would be quite a help to the officers concerned.

Q. I do not think there is any object in pursuing this further, until we have the recommendations, but it does seem to me that some time before this Committee ceases we should get to that point. Whatever the abuses were, would those recommendations tend to make the carrying out of the Election Act easier for the officials?—A. Well, according to our opinion, yes.

Q. And would they have a bearing on preventing corrupt practices?—A. Colonel Biggar and I have always taken the view that, according to the reading of section 75—

Mr. BELL (Hamilton): Would it not be possible for us to get these reports in a very short time now, so that we would not have to consider them in the dark, as it were?

Hon. Mr. ELLIOTT: I was going to suggest that it be done at the next meeting.

Mr. BELL (Hamilton): Could it not be done this morning?

WITNESS: I could have them here in ten minutes.

Mr. MERCIER: But all of these recommendations may not be applicable.

By Hon. Mr. Lapointe:

Q. Are you sure that this report has not been printed?—A. I am sure the report has not been printed. The only report printed under section 75 was the report made after the general election of 1921. A report was printed.

Q. I remember there was such a report, but it was for 1921?—A. Yes.

By the Chairman:

Q. Was it not included as an appendix?—A. Yes, sir.

[Mr. Jules Castonguay.]

By Mr. Mercier:

Q. Were they not tabled in the House?—A. They were tabled, but at the first session after the election. As an answer to your question, we have always taken the view, according to the reading of section 75, that we are limited in our suggestions to amendments for the most convenient administration of the law. Amendments dealing with corrupt practices and penalties are, to my mind, something for Parliament to deal with. They are fundamental changes, and we have always taken the view that on questions of that kind we were not supposed to make suggestions.

By Hon. Mr. Elliott:

Q. Probably you are right, but what this section says is:

The chief electoral officer shall, after each election, make a report to the Speaker of the House of Commons, suggesting what, if any, amendments are in his opinion desirable for the more convenient administration of the law,—

You say it was limited to that?—A. It was limited to that. That question of qualification, for instance, we always took the view that it was not within our view and privilege to make suggestions to Parliament.

By Mr. Mercier:

Q. The same with regard to the penalties?—A. The same with the penalties. We never thought we had the right or the power to make suggestions, to make the penalties more severe or less severe.

By Hon. Mr. Elliott:

Q. Quite right. I think you are limited to that, under this section. If you would have these reports produced as quickly as you conveniently can, it might be helpful. You might get the 1921 suggestions as well?—A. Very well, sir, I will have them here in a few minutes.

(Witness retired.)

GEORGE GONTHIER called and sworn.

By Mr. Kellner:

Q. You had, Mr. Gonthier, some objections placed before you in connection with paying some of these election bills, some time after the 1925 election?—A. We had.

Q. Can you give the Committee a copy of those objections?—A. Well, I shall have them prepared for you.

Q. Can you have them for the next meeting?—A. Yes.

Q. When someone writes in for the payment of an account, and you think the account—

Hon. Mr. LAPOINTE: What is it the Auditor General is being asked for?

The CHAIRMAN: Objections to the paying of certain accounts.

WITNESS: By the chief electoral officer, I understand.

By Mr. Kellner:

Q. I thought we had better have them from all sources; I presume you would get them from other sources?—A. They would come through the chief electoral officer, of course.

Q. That will cover the whole thing. There is no objection to that?

Hon. Mr. LAPOINTE: No.

[Mr. George Gonthier.]

By Mr. Kellner:

Q. If you get an account, and you do not think it should be paid, what procedure do you take; do you just refuse payment?—A. We communicate with the chief electoral officer.

Q. Suppose he does not agree with you, what do you do then?—A. In some cases we refer to the Treasury Board—the account is sent to them or to the Secretary of State.

Q. The powers of the Secretary of State are limited; he can only adjudicate on a claim where it is a case of dispute as to the amount?—A. The duties of the Auditor General are defined in section 78.

Hon. Mr. LAPOINTE: What section?

Mr. KELLNER: Section 78 of the new Act.

By Mr. Kellner:

Q. Under that section, if there is a dispute as to the amount of the account, then the Secretary of State can determine whether you or the claimant are right?—A. As a last resort.

Q. And that is all?—A. Yes. In some cases, as it is stated in this section, these accounts are referred to the Treasury Board, and in some other cases to the Secretary of State.

Q. That would be as far as his powers would go, would it not?—A. Yes.

Q. Take a case where the legality of an account is involved, as an illustration, we will use the poll I mentioned a little while ago to the chief electoral officer, No. 169, in which the poll book was missing and was never found?—A. Yes.

Q. Who would authorize the payment of those election expenses? That would be a legal matter?—A. It would be.

Q. It would have to be done by the Treasury Board?—A. If there is no objection. If we have no objection before us, we will pay the account as presented, as certified.

Q. An objection was placed before you, and the grounds were given; you also had the record of the examination of the poll before you, in which it was stated that the poll book was missing; so you unquestionably knew the poll book could not be found?—A. I am not very familiar with the details of the payments. Payments are made through a branch of my office in charge of the chief examiner, who is Mr. Stockton, and I will have to refer to him for these questions, or you may question him on these details.

Mr. KELLNER: Would it be all right if we had Mr. Stockton sit beside the Auditor General?

The CHAIRMAN: Surely.

Mr. KELLNER: You heard the question, Mr. Stockton?

Mr. STOCKTON: Not fully.

Mr. KELLNER: In poll No. 169 the poll book was missing.

The CHAIRMAN: You cannot examine two witnesses at one time, Mr. Kellner.

Mr. KELLNER: I was just elaborating the question to him, so that he would be able to answer it.

The CHAIRMAN: It need not be taken down. You ask the Auditor General, and you can get the information from him.

Mr. KELLNER: Very well.

By Mr. Kellner:

Q. In regard to poll No. 169, where the poll book was missing, I do not think there is any doubt in the world but that you had knowledge of it. I wrote the

Mr. George Gonthier.]

chief electoral officer, and he informed me that the correspondence would be turned over to your department. Notice was also sent from the Clerk of the Court. When the returns from the polls were returned to Edmonton for examination, that poll book could not be found. Under section 78 I take it that you could not pay that account without the authorization of the Treasury Board. The question is, did you get that authorization from the Treasury Board to pay it?—A. We received information from the chief electoral officer that something was wrong in that poll, and the account was paid when he removed his objection.

Q. When the Chief Electoral Officer removed his objection?—A. Yes.

Q. As I see it, under Section 78, the Chief Electoral Officer would not have the authority to sanction the payment of that poll; that could only be done through the Treasury Board. Was there any application made to them as to whether they should pay this or not?—A. It is only in a case where there is a difference of opinion between the Chief Electoral Officer and my office that the Treasury Board is called upon to give a decision.

Q. You have got a different interpretation of the Act than I have. I was under the impression that where objections were taken to the payment, that payment could not be authorized, only as provided for under Section 78.

Hon. Mr. LAPOINTE: I see that under Section 78, when there is a disagreement between the Chief Electoral Officer and the Auditor General, then if the question involves only the legal right of the person claiming payment to be paid at all, it shall be referred to and finally resolved by the Treasury Board. That seems to be the only provision.

Mr. KELLNER: In this case I wrote the Chief Electoral Officer that that D. R. O. should not be paid. I think Section 87 provides that where the returns are not put in the proper envelopes the D. R. O. sacrifices the payment. My point is that he should not have been paid without the sanction of the Treasury Board.

Hon. Mr. CANNON: If he receives the claim. Suppose the Chief Electoral Officer or the Auditor General receives an outside complaint and a conflict arises, then the Section applies; but if neither the Auditor General nor the Chief Electoral Officer receives the complaint then the section does not apply.

Hon. Mr. LAPOINTE: More than that, the section only applies when there is this agreement between the Auditor General and the Chief Electoral Officer.

Hon. Mr. CANNON: The mere fact of forwarding the complaint does not mean that section 77 applies.

Mr. KELLNER: I thought I had made myself clear on that. I suppose I have not.

Mr. BELL (Hamilton): Is not your present question as to who actually took the decision in regard to payment? Not who would take it, but who did take it?

Mr. KELLNER: Yes, who did take it.

The WITNESS: The facts are those: we received a letter from the Chief Electoral Officer on the 28th December, and we withheld payment.

By Mr. Kellner:

Q. That would be the 28th of December, 1925, and you withheld payment until then?—A. Until after we received a letter of March 9th, 1926. That was received in our office on the 11th of March. The account was paid after that date.

Q. Immediately after?—A. A few days after.

Q. You might as well read that letter containing the complaint about paying.—A. Do you want me to read it?

Q. Yes, if you will.—A. It is as follows:

OTTAWA, December 28th, 1925.

The AUDITOR GENERAL,
Ottawa, Ont.

DEAR SIR,—I have a report from the returning officer for Athabaska that the deputy returning officer for poll No. 169 failed to return his poll book in the proper envelope and is apparently unable to produce it now. It would appear therefore that this deputy's fees and expenses should be forfeited in accordance with section 66 (9) of the statute.

Yours truly

Sgd. O. M. BIGGAR

Q. Then that was your objection received from the Chief Electoral Officer. Where did you get the authority to pay it after that?—A. In a letter of the 9th of March that we received on the 11th. It is a letter containing this paragraph and it is signed by Mr. Biggar. I think, however, I had better read the whole letter. It is as follows:—

OTTAWA, March 9, 1926.

The AUDITOR GENERAL,
Ottawa, Canada.

DEAR SIR,—My request that the payment of the accounts of certain of the registrars in the electoral district of Athabaska should be delayed may now be taken as withdrawn.

It appears that Mr. Kellner has received lists for some of the polling divisions in question, though he has given me no particulars of these, and the election clerk states that the lists for certain other of the polling divisions in question were delivered by him personally to Mr. Kellner. Moreover, no step appears to have been taken by Mr. Kellner for nearly three months in the direction of agreeing with the returning officer upon an exact list of the registrars in default, as I asked him to do.

I have accordingly notified Mr. Kellner to-day that I propose to withdraw my request for any further postponement of payment since it appears that further indefinitely to delay the payment of any accounts which appear to be regular and are properly certified would be unfair to the election officers concerned.

Yours truly,

(Sgd.) O. M. BIGGAR.

Q. That is the only one you have?—A. Yes.

Q. Does that not refer to registrars only?—A. It does refer to registrars, but it was intended to apply to all officers.

Q. You read that into the meaning of it?—A. Yes, through a conversation with Mr. Biggar and Mr. Stockton.

Q. Do you remember preparing this return 176A, Sessional Paper, showing payments made to the various election officers in the constituency of Athabaska? It is under date of April 14, 1926?—A. That is 114. Yes. I have a copy.

Q. Will you turn to poll 169 there. For the D.R.O. you will see that there is no payment made at all. That is on page 34. There was no payment made?—A. No payment made.

Q. Then, evidently on the 14th of April, 1926, that account had not been paid, when this return was made out?—A. It had not been paid on the 31st of March, 1926, at the date that this statement was made.

Q. I mention that in connection with your statement a moment ago, of your authority from Mr. Biggar on the 9th of March, that you had paid them immediately after that.—A. Well, some time after. Some days after.

[Mr. George Gonthier.]

Q. The month had evidently expired any way before you paid it?—A. That seems to be the evidence. It was not paid before the 31st anyway.

Q. Do you not think it would be well to get a letter from Mr. Biggar confirming that conversation you had in which he authorized you to pay those officials?—A. Well, of course, Mr. Biggar is no more Chief Electoral Officer.

Q. No, but I imagine his actions are still before the House.

By Mr. Kennedy:

Q. Do you not think you should have had it before paying the account?—A. Not necessarily. The letter implied that and we proceeded only after having consulted him, or in the ordinary way.

By Mr. Kellner:

Q. Well then, there is no doubt that Mr. Biggar authorized the payment of that account or it would not have been paid?—A. It was along with other accounts.

Q. And according to the Act he was not authorized to recommend the payment of that? That was a legal matter and governed by the Act itself?—A. I cannot answer for Mr. Biggar.

Q. Have you got a statement with you showing another amount paid in the constituency of Athabaska in 1925?—A. Yes, it is one of those statements that you have.

Q. Have you one for 1926 as well?—A. I have until the 14th of April, 1926. Or up to the 31st of March, 1928. I have the balance from there.

Q. What was the total amount in 1925?—A. Up to the 31st of March, 1926, \$12,469.54.

Q. Will you give me the total?—A. The grand total up to the 31st of March, 1928 is \$18,425.89.

Q. And for the 1926 election?—A. That comprises all of the expenditure.

Q. But you are talking about the 1925 election now.—A. Oh, that is the 1925 election.

Q. That 18,000?—A. Yes.

Q. Now, let us have it for 1926.—A. The total amount for 1926 is \$12.-803.30, to the 22nd of May, 1928.

Q. And they are all paid, I presume?—A. No, not all the accounts are paid; there may be other accounts, but not that we know of.

Q. That will give a difference of approximately, how much?—A. \$6,000. But the original accounts presented to the office for 1926, the total amount claimed was \$22,434.43.

Q. For what year?—A. For 1925. We disallowed \$4,008.63 and we paid \$18,425.80.

Q. And in 1926, did you have to use the hammer a little and pound them down in 1926 too?—A. Not so much.

Q. You did not have as many complaints in 1926?—A. No.

Q. When this return was gotten out that I mentioned a moment ago, there was a balance of advances to returning officers of \$1,900. Did you ever get that straightened up?—A. Yes.

Q. What was done with that?—A. These were advances, and the amount claimed by him was \$2,564.70; and the amount paid was about \$2,100. I have not got the exact amount.

Q. In other words, you accepted statements from him that he advanced money?—A. We accepted receipts and vouchers.

Q. You did not tell me when we were discussing it a moment ago what date you paid that poll 169 on.—A. May 26, 1926.

Q. Of course, you will realize that at that time that poll had been asked for to be returned to Edmonton to the Clerk of the Court, who had notified the Chief Electoral Officer that the poll book was not in the return.—A. Here are the circumstances. This account was paid on a duplicate voucher, which was accompanied by a letter from J. A. Simoneau, dated April 28, addressed to the Chief Electoral Officer and which was transmitted to him by me on April 27, 1926.

Q. And you paid it on the 26th of May?—A. On the 26th of May.

Q. Did you have a definite knowledge at that time that that poll book was missing?—A. No, except Mr. Biggar's letter referring to it.

Q. Well, of course, he had written to you that it was missing and could not be found and unless it was later found the account should not be paid, is that not right?—A. In his letter of the 9th of March he seemed to cover all accounts. All accounts were paid according to that letter.

Q. I think you put too much stress on what he wrote you on the 9th of March. I want now to submit to the Committee just what is involved in that poll 169. You can take it from Judge Clarke's report. On page 9 of his report, Judge Clarke speaks as follows:—

Lac La Biche Poll No. 169.

The poll book for this poll is missing and the evidence points to the conclusion that it was destroyed by Isaac Gagnon, the returning officer—since deceased—after the return of the ballot box and papers to him in order to prevent discovery of the fraud perpetrated at that poll; but from other evidence it appears that the poll book contained the names of 65 persons as having voted as follows: Cross 57, Gauvreau 5, Kellner 3. Of these names about 16 did not vote; ballots to that number were marked, some by the deputy returning officer, J. A. Simoneau and some by P. D. Hamel. The ballots were placed in the ballot box by Simoneau and the names were entered in the poll book by Frank P. Fisher.

I have no knowledge of what was done with the poll book, but when the Judge gave us a letter that the returns from that poll be forwarded to Edmonton, it was not there, and under the Elections Act this D. R. O. should not have been paid. The account was held until the 26th of May and paid then, but, Mr. Chairman, the evidence would show that all these officials, Simoneau, Fisher, Chisholm and Bouchard were paid from that poll and of course, taking Judge Clarke's report for it, it was a poll in which gross irregularities took place and the payments should not have been paid. Now, I want to go to the next one, Julien Cardinal, Poll 167. I presume he was paid about May 5 from the notation here?—A. You have on that return an amount of some dollars advanced by the returning officer, which were reimbursed out of that \$1,900.

Q. That would be paying \$10 in that \$1,900?—A. Yes.

Q. All that you would do would be to give him credit; you would not issue him another credit?—A. Yes.

Q. I just want to call to your attention the statement in connection with poll 167 on page 10 of the report:—

The poll book and the statement of poll show 34 to have voted at this poll, 33 for Cross, 1 for Gauvreau, 19 of the names entered in the poll book did not vote; ballots were marked for them by the poll clerk, R. W. LaCroix and deposited in the ballot box by him. The Deputy Returning Officer, Julien Cardinal, could not read or write. The signatures of his name to the oaths contained in the poll book were not made by him but by LaCroix. I cannot, however, exonerate Cardinal from aiding in the commission of the offences committed at this poll.

[Mr. George Gonthier.]

Taking the statement of Judge Clarke's report about 167, it was evidently a case of where Gagnon gave this man \$10 to go up and hold the poll, and the man could neither read nor write and he could not sign?—A. Of course, we had no knowledge of these facts.

Q. I appreciate that, but that is the knowledge that you have at the moment. Now, I am not going through all these, but I just want to call your attention to this. You have a copy of it before you, I presume?—A. That is return 114; yes, I have.

Q. I want to call your attention to all the constables. There is a list of constables. Have you found it necessary in every election to have that many constables at the polls?—A. It is a debatable question and we have a great deal of trouble with regard to accounts of constables. We have contested a great many of them and we are doing so in most of the constituencies.

Q. I notice, according to the notes that are on the margin here, that poll 27 was paid on July 27, 1926. According to this footnote they were paid on July 27.—A. All these payments were the result of collusion and of many false certificates. We could not know that.

Q. I appreciate the position you were in all right. Have you confirmed that date?—A. The account is not here.

Q. It is not there?—A. No.

Q. I presume these marginal notices are correct? Here are several accounts paid in July; one on July 27 and at that time the advertisements would be out for this Commission. I do not think that Commissioner Clarke had started to take evidence but certainly he would be advertising the dates on which he would start. I think the 10th day of July is the date on which the first advertisement appeared, so that it is practically two weeks after that you are paying accounts. The point I want to bring out is, don't you think it would have been advisable for your Department to have held these accounts up pending this report of Judge Clarke?—A. What account was paid in July?

Q. The accounts at polls 27 and 56 and poll 21 was paid in August.

Hon. Mr. CANNON: Do you suggest that the payments of all accounts should have been suspended?

Mr. KELLNER: No.

The WITNESS: We would also have to check up the vouchers for these special payments. They are not mentioned in Judge Clarke's report.

By Mr. Kellner:

Q. Those two polls were not?—A. They were paid in the regular course of business.

Q. What I was going to remark to the Solicitor General is that these accounts had been held up until the 26th of July. Now, this Commission was actually under way at that time, and it seems to me that they might as well have held them up until the Commission had met?—A. Not in these two cases.

Q. I admit that Judge Clarke makes no reference to those two instances?—A. The original account was paid long prior to this date. This is the balance of the account.

Q. The original account, what does that include?—A. The accounts of the deputy, the clerk, and the rent were paid, and these were the balances.

Q. These were the interpreter and constable?—A. These were held for further explanation, and when we received satisfactory explanations, they were paid.

Q. I might just admit that I could hardly conceive of any explanation for having a constable at that poll, I know it well and there is no more need for one there than there is here this morning.

By Hon. Mr. Cannon:

Q. As a matter of fact, Mr. Gonthier, after an election, you very often delay payment of accounts with the returning officer for quite a long period?—A. Very often.

Q. I know I have had very many complaints from people in my constituency.—A. Every one of the members complain.

Mr. BELL (Hamilton): If we want to consider that fully, I know that in Hamilton payment was deliberately withheld from the returning officers. In fact they came to me.

The WITNESS: We issued 97,000 cheques in the 1925 election and we had to go over thousands and thousands of papers and correspondence with the Chief Officer and the returning officers.

By Mr. Kellner:

Q. What were those figures again? How many in 1925?—A. In 1925, 97,655 cheques were issued. And in 1926, 97,796 cheques were issued. There were more polls.

Q. Now, will you turn over to the next page, the account of Daigneau of Athabaska, do you know when that account was paid?—A. This account was paid in different amounts. September, 1925, \$50 by an advance to the returning officer. Seventy-five dollars on September 30th, 1925. Twenty-five dollars on October 10th, 1925. Twenty-five dollars on the 26th of October, 1925. And the balance July 16th, 1926.

Q. Have you got the details of what that was for?—A. No, we have not got those details here.

Q. Could we have the details submitted?—I might mention to the Committee that that gentleman told me last fall he had never been paid. I mean in December of this last year. Now, let us consider W. L. Lawler, \$961.45. Have you got the date of payment of that?—A. No, this account was sent to the Judge and it has not been returned. It should be one of the exhibits.

Q. You do not recall when it was sent out. That would be in the exhibits which we had sent to Edmonton?—A. This account was sent to the Judge on October 7th, 1926.

Q. You have no recollection of when you paid that account?—A. No. We can get that information from our ledger, though.

Q. The only thing about it is, we have been trying to serve a summons on that man ever since the week after the election and we have never been able to find him. I was wondering how the cheque reached him.—A. We issued no cheque.

Q. How was he paid?—A. Advances to a returning officer.

Q. That is another one where you straightening up with \$1,900?—A. Yes.

Q. The Empire Taxi and Auto Livery in Edmonton; was that one of the same kind? One hundred and five dollars?—A. That was paid on the first of June, 1926.

Q. Have you got the details of the account?—A. Not here.

Q. We should have that one. I think that was the one that would be taking the ballots around on election day. D. A. Boychuk, something like \$330.50?—A. Paid on May 25th, 1926. We shall also furnish the details of that.

Q. Let us have Donald M. Carroll too and Frank M. Robertson. You will notice Mr. Ralph Wilson of Edmonton, \$165.25. Have you got the date of payment of that one?—A. On May 5th, 1926.

Q. You were here yesterday, were you not?—A. Yes.

Q. You will recall that when we were reading that evidence, it was pointed out that he had that cheque but he had not cashed it yet away on in August?—A. We would have no knowledge of that, at the present time.

[Mr. George Gonthier.]

Q. Of course, we will want the details of that one too. I think you were paying him for stamping these ballots and one thing or another like that, but at the same time he was in charge of Cross' committee rooms. We brought that out yesterday.—A. We can furnish that too.

Q. You have Armand Leroux at St. Paul, \$162.50?—A. He was paid on May 4th, 1926.

Q. Oscar J. Neddo, \$57.50.—A. May 4th, 1926, the same date.

Q. Now, let us turn to Henry Turcotte of St. Vincent. I think I have a statement here of that account. That was evidently held up for a considerable time, was it not?—A. All of these accounts were held up.

Q. And the only authority you had later to pay them was Mr. Biggar's letter, of course?—A. That letter does not apply to these.

Q. Where did you get authority to pay these?—A. The ordinary authority. The accounts were presented in the ordinary form and certified.

Q. Did you pay that in May of 1926?—A. On October 1st, 1925, \$100 to the returning officer. We returned advances to the returning officer and then the balance on May 4th, 1926 and June 9th, 1926.

Q. Were those cheques or just balancing?—A. Those were cheques.

Q. Now, take the postmaster at St. Vincent. It is spelled here "l-a-r". Is that the right spelling?—A. It should be "Langevin".

Q. It is "N" instead of "R"?—A. Yes.

Q. When was that account paid? A. We paid advances to the returning officer \$100 on September 25th, 1926.

Q. What was the total amount of the account?—A. \$476.75. And the balance of \$376.75 was paid in two amounts on May 7th, 1926 and July 27th, 1926 by cheque.

Mr. KELLNER: Mr. Chairman, I just want to call the attention of the Minister of Justice to this account. It totals \$476.75 for appointing election officers, and he also acted as election clerk. He has been a postmaster in one of the post offices down in that country for a good number of years and he is there yet. I think that probably he is one who, according to the statement of the Postmaster General, should be released from the service.

Hon. Mr. LAPOINTE: Is he mentioned in Mr. Justice Clarke's report?

Mr. KELLNER: No, but the Postmaster General has taken the stand in the House that a civil servant who took an active part in those elections would be released from the service.

Hon. Mr. LAPOINTE: That is out of the province of this Committee. That is another question.

Mr. KELLNER: Yes, it is a side issue.

Hon. Mr. CANNON: Did not the Postmaster General say that that would be so provided it were proved that a civil servant had done something irregular?

Mr. JOHNSTON (Long Lake): Had acted as a partisan?

Mr. KELLNER: No, not at all. If he was actively engaged in the election.

Hon. Mr. LAPOINTE: Mr. Kellner, you suggested to the Chief Electoral Officer as a possible improvement, that the returning officers ought to be Registrars of Deeds or Prothonotaries of the Court, provincial officers? Those men cannot be partisans surely and if we accept them, then on your theory they ought to be dismissed from their offices because they act as returning officers.

Mr. KELLNER: No, that is not my theory. That is the Postmaster General's theory.

Hon. Mr. LAPOINTE: To be retained and act for one side or the other is quite different from being a returning officer.

Hon. Mr. CANNON: As a matter of fact, in these sections civil servants are people who are looked up to. If a man is in an official position he will not be a partisan.

Mr. KELLNER: There is no question about this one. Judge Clarke's report does not mention him specifically but shows what happened around where he was doing the work.

By Hon. Mr. Cannon:

Q. What is the man's name—A. Leonce Langevin.

Hon. Mr. CANNON: The Civil Service Act provides for that. Any civil servant committing an act of partisanship may be dismissed by the Civil Service Commission.

Mr. KELLNER: I am just calling it to the attention of the Minister of Justice for what it is worth.

By Mr. Kellner:

Q. Did you ever receive a letter from Judge Beek asking for money to carry on his investigation?—A. No.

Q. Did you ever receive a letter from the Chief Electoral Officer in connection with the investigation?—A. Yes.

Q. Would you mind reading that letter to the Committee?

Hon. Mr. LAPOINTE: Has this anything to do with the election?

Mr. KELLNER: It has to do with the investigation.

Mr. LAPOINTE: Are you attacking the investigation? We are accepting the report of Mr. Justice Clarke as final. I do not see really what this has to do with it.

Mr. KELLNER: I will be very frank in telling you just what I am leading to. That petition was presented to Parliament in February, and some time in July, towards the end of the month, I think, Judge Beek wrote and stated that he could not proceed with the investigation on account of not having funds, or to that effect. Now, time was passing and the evidence we had was disappearing. I am not trying to make any party capital out of this or anything of the kind, but I think it should be very clearly brought out that what happened at that time should not occur again. I might add that I propose making a recommendation to the Committee that in the case of the Corrupt Practices Act there be a limit of not over sixty days within which the Commissioner must start the investigation after the petition has been accepted by Parliament.

Hon. Mr. CANNON: My memory may not be accurate, but was there not some reason for that delay, that on account of climatic conditions, the Commission could not go out?

Mr. KELLNER: I think that this letter will bring out the details. I suggest that this be not put on the record at present but that the letter be read and then we can discuss whether it should go on record or not.

Hon. Mr. LAPOINTE: There is another reason for not going outside our jurisdiction. Mr. Justice Beek has lately died and cannot defend his name against any suggestion. If it were an ordinary case I might have no objection.

Mr. KELLNER: There is absolutely no reflection on Judge Beek and I do not propose to suggest any. The reflection, in my opinion, rests on the Parliament of Canada. My conception is that all these officers are under the jurisdiction of this Parliament.

Hon. Mr. LAPOINTE: All right, you know better what the letter contains. I am merely calling the attention of the Committee.

Hon. Mr. CANNON: I think Mr. Kellner's suggestion is very fair, that the letter be read, but not taken down.

[Mr. George Gonthier.]

The CHAIRMAN: The letter will be read, but not recorded by the Reporter. (Letter of May 5 is read by the Clerk of the Committee, also letter of May 1).

Mr. KELLNER: Is there any objection to that going on the record?

Hon. Mr. LAPOINTE: No, I do not think it is relevant, but I have no objection to it going in.

Mr. MERCIER (St. Henri): Why not have a copy made for your own use?

Mr. KELLNER: It will be much more convenient to have it on the record.

The CHAIRMAN: The letter will be taken by the Reporter then and included in the record.

Hon. Mr. CANNON: Mr. Biggar's letter should also go with it.

The CHAIRMAN: Yes, both letters.

(Letters referred to are as follows):

SUPREME COURT, ALBERTA,
May 1, 1926.

O. M. BIGGAR, Esq., K.C.,
Chief Electoral Officer,
Ottawa.

DEAR SIR,—As you are doubtless aware, I have been appointed a Commissioner under the Corrupt Practises Inquiries Act (R.S.L. 1906 c. 8, amended by c. 7, of 1921) to enquire into alleged corrupt or illegal practices in the Election held in the Electoral District of Athabaska on the 29th October, 1925.

I have had a preliminary conference with Counsel for the Petitioners and for the sitting member.

There are a number of things in respect of which I find it necessary to communicate with the Government, some of which are properly put before you. Insofar as any of them should go to some other person, will you be kind enough to transmit my request to him.

Owing to the provisions of section 12 and the boundary of the Electoral District of Athabasca being more than ten miles from Edmonton, all the meetings of the Commission must be held within the District. This is subject (Sec. 14) to meetings for the purpose of deliberation being held in Edmonton or Ottawa with the approbation of the Minister of Justice. It would be well that I should have such approbation for such meeting in Edmonton at all events. Then a study of the map of the District having regard to lines of Railway, and the schedules of trains seems to make it desirable to take first the Canadian National Line to St. Paul de Metis, stopping first at Gibbons, then at Radway Centre, then at St. Paul de Metis and from there travelling by automobile to probably both Cold Lake and Frog Lake; then returning to Edmonton, to take the A. & G. W. Railway Line to Waterways, where it will probably be necessary to remain several days. Owing to there being only a weekly train service, the train returning the day following its arrival, it will be necessary to have a special engine take our car to Lac La Biche to be picked up by the next weekly train south; there seem to be no freight trains during the week. A sitting will apparently be necessary at Boyle Road (Mile 84), to be reached either on the return journey or from Edmonton by automobile.

My "Party" will consist at least of myself, a clerk (who would be a general factotum), a stenographer and a counsel on each side. This is the only practicable method of ensuring the presence of all those persons at each meeting. Besides the party there will, of course, be at each place

[Mr. George Gonthier.]

a considerable number of witnesses. At some of these places I believe there is no hotel accommodation, at others it is wholly inadequate, having regard to the number to be accommodated, and under any circumstances of a rather primitive and unattractive character. At my age—I am just entering on my seventieth year—and having regard to serious operations some years ago, I cannot take the risk of the ordinary accommodation to be found in these places. I have, therefore, discussed with the Superintendents of the two railways the question of their placing at my disposal a private car. I have already got figures from the A. & G.W. Railway. They show that the cost of private car accommodation for the party will be approximately \$500. I have not yet the figures from the Canadian National but I calculate they will be something under \$400.

It is said here that the Government will in all probability pay counsel his fee and expenses for conducting the inquiry on behalf of the petitioners. It is said too that inasmuch as the inquiry is one in the public interest, there should be opposing counsel for the purpose of bringing out the whole truth and consequently that it would be proper that the Government should also pay the fee and expenses of counsel nominally representing the sitting member. The fees of both such counsel would doubtless be finally settled by the Department of Justice, after the conclusion of the inquiry.

But I should like to be placed in a position to inform the individuals whom I shall engage as clerk and stenographer approximately, at least, what remuneration in addition to their expenses they will receive. If the plans I have outlined are eventually adopted, the expenses of travelling would, for the most part, consist of the cost of the private cars (including meals) and automobiles in which the entire "commissioner's party" would travel together and which I suggest the Government should treat as part of the general expenses of the Commission and as an indivisible item, without encroaching upon the allowance for fees and per diem allowance. In addition to those expenses there will be the rent of "halls" or such rooms as can be secured for the holding of meetings; the cost of advertising; the cost of service of subpoenas, witness fees, perhaps fees to constables, etc., etc. To meet such of these large and miscellaneous expenses as require to be paid promptly I should be supplied with a considerable sum of money, subject to account. I suggest not less than \$1,500.

Then all the papers and documents of every description relating to the election should evidently be forwarded to Edmonton to be dealt with, subject to my order. This, I think, should include the petition on which the commission was issued, as so far I have no official information as to who are the petitioners.

As soon as these matters are arranged I shall take steps to commence hearings. Owing to the extent of the district and the difficulties of travel and the impossibility of fixing in advance the date and place of meeting in more than two or three instances at one time, there must of necessity be considerable delay in completing the work and a number of successive adjournments for periods of eight days—the limit under the Act—will be necessary.

I may add that I was at first under the impression that I could not or ought not to proceed during the session of Parliament, not then being aware of an amendment made in 1915 to the Controverted Election Act. In view of that amendment I will proceed as soon as reasonably practicable and continue till the work is completed, notwithstanding it will undoubtedly run into long vacation.

[Mr. George Gonthier.]

I should be glad to have a number of office copies of the Election Act, Controverted Elections Act and other allied Acts, if any. It would be a great convenience if you would have sent to me a large attache case for the many documents I shall have to have by me.

Yours truly,
(Sgd.) N. D. BECK.

OTTAWA, May 5th, 1926

The AUDITOR GENERAL,
OTTAWA, ONT.

DEAR SIR,—I enclose a copy of a communication I have this morning received from the Honourable Mr. Justice Beck, who has been appointed to conduct an enquiry under the Corrupt Practices Enquiries Act, R.S.C. 1906, c. 8, as amended by 1921, c. 7. Sections 36 and 27 of that Act empower the Governor in Council to direct payment of the necessary expenses of the enquiry, but apparently only out of any monies provided by Parliament for the purpose. I think probably the Department of Justice must deal with some of the points raised, and I am accordingly sending a copy of the letter also to the Deputy Minister of that Department.

Yours truly,
(Sgd.) O. M. BIGGAR.

Mr. KELLNER: Now, may I proceed with the witness?

The CHAIRMAN: Yes.

By Mr. Kellner:

Q. You did not pay that \$1,500 that Judge Beck said he wanted?—A. No.

Q. What did you do when you got that letter?—A. We did not do anything. This was sent also to the Minister of Justice. Even Mr. Biggar was not certain as to what should be done with it.

Q. So there was no action taken whatever?—A. None whatever, as far as I am concerned.

By Hon. Mr. Lapointe:

Q. Do you mean on Mr. Justice Beck's letter?—A. No, this letter from Mr. Biggar. I mean so far as I am concerned, of course.

Q. Because action was taken?—A. That is implied. But this question only refers to my Department.

By Mr. Kellner:

Q. You would not have considered it your privilege to have sent that money without instructions from the Department of Justice?—A. Oh, no.

Mr. KELLNER: I think that is all the questions I have to ask the witness this morning.

By Mr. Kennedy:

Q. When was the money made available to commence the enquiry? Could you give us the date of that?—A. I have not got that here.

Q. Can you give a statement of that to the Committee?—A. Oh, yes. I have a statement here.

Q. If you will prepare a statement for the Committee and also give the total cost?—A. I have the total here. A statement was requested.

[Mr. George Gonthier.]

Q. Read it, please.—A. (Reads):

Expenses of Commission to enquire into alleged corrupt practices in connection with election in Athabaska District.

Travelling expenses, Justice A. H. Clarke . . . \$ 829 36

Miscellaneous

H. C. Macdonald, Edmonton, legal expenses . .	3,437 42
R. D. Tighe, Edmonton, legal expenses . . .	3,023 93
Advertising of sittings of commission. . . .	49 30
Rent of halls	60 00
Serving summons	433 90
Taking and transcribing evidence	1,306 65
Witness fees	984 18

Total \$10,124 74

Paid as follows:—

1926-27 \$10,000 00

1927-28 124 74

\$10,124 74

Q. When was the money voted by Parliament?—A. I have not got the date of that. It must have been by an Order in Council.

Q. Can you get us the date of that?—A. We will get that for you.

Q. I want to ask you a few questions with regard to these accounts in Athabaska. Are they all paid now?—A. I have already been asked that question.

Q. I did not get that.—A. "We have no knowledge of accounts still to be paid as all accounts since received have either been dealt with and either payment has been made or the account has been refused."

Q. Were all the accounts held up as a result of the first protest made by Mr. Kellner, paid?—A. The travelling accounts were not held up, they were paid.

Q. Certain accounts were held up as a result of the protest made by Mr. Kellner and a subsequent letter sent by Colonel Biggar to your office?—A. Yes.

Q. After Colonel Biggar wrote you on March 9 and discussed the matter with yourself or some of the other officials, were all these accounts held up as a result of the protest made in the first place, paid?—A. Not immediately.

Q. Are they all paid now?—A. Some of them have never been paid and will not be paid.

Q. How did you differentiate between those you would pay and those you would not pay if Colonel Biggar gave you authority to go ahead?—A. Well, we had objections that some of these accounts were not regular and we did not admit the claim. For instance, in cases of mileage. Very often we cut down the mileage considerably.

Q. But all accounts held up as a result of Colonel Biggar's protest in December were later paid as a result of the withdrawal of that protest by his letter of March 9?—A. They were put in course of payment in the ordinary way.

Q. And they are paid?—A. Not all of them.

Q. The ones that are held up were held up by reason of objections of your own?—A. Yes.

Q. And not objections of his? Now, have you read this report of Mr. Justice Clarke?—A. I have.

[Mr. George Gonthier.]

Q. Are you satisfied that all those officers mentioned in this report as having engaged in corrupt practices, forgery and so on and the compiling of voters' lists with fictitious names on them—that they were entitled to their money?—A. No.

Q. Have you taken any steps to get back that money for the Dominion of Canada?—A. Not yet.

Q. Have you a right to recover that money?

Hon. Mr. CANNON: Are you asking him for his opinion?

Mr. KENNEDY: If we have his opinion, it may be that we can get a legal opinion from some one else.

By Mr. Kennedy:

Q. Have you the right to recover any of that money?—A. In the case of forgery, we would.

Q. Have you taken any steps to get a legal opinion?—A. No, the cheques are still with the Commission.

Q. What steps would you have to take to recover the money in connection with the parties that have been accused of forgery?—A. We would return these cheques to the bank that paid them and they would have to reimburse the amount.

By Hon. Mr. Cannon:

Q. Is that the usual practice?—A. Yes, that is the usual practice.

By Mr. Kennedy:

Q. If some of these parties had no right to the money, how do you justify inaction in trying to recover that money?—A. We cannot take action whilst this matter is before Parliament on this report.

Q. Your intention is to wait until the Committee reports on the matter?—A. Yes.

By Hon. Mr. Cannon:

Q. Mr. Gonthier, do you employ extra assistants in order to examine into and expedite the payment for these election expenses?—A. Yes.

Q. Can you state to the Committee approximately the number of employees that you have to have for that purpose?—A. The number of temporary employees varies, of course, in each case. For instance the maximum number of additional employees who were engaged on these accounts were: in 1925, 35; in 1926, 58, at a certain date. But that varies. I can give you the details of the number of these clerks.

Q. I do not want the details. I gather from these figures that it involves considerable work?—A. I can give you figures as to that, that are quite eloquent. In 1925 the total expenditure amounted to \$1,786,099.90.

Q. That is the total cost of the election?—A. Yes. In 1926, \$1,844,479.31.

Q. Am I to understand that you examine into each of the accounts, and the vouchers in support of the accounts?—A. Everyone of those accounts is examined.

Q. Every individual account?—A. Yes, every individual account. And there is an individual cheque issued for each of these accounts.

Q. So that Lac La Biche was one of many other places?—A. Of course.

By Mr. Kellner:

Q. Of course, you had knowledge of certain polls in Athabaska, that you would not have similar knowledge of with respect to any other polls. I refer there to the objection taken to you paying the accounts. That would not apply to any other constituency in all of Canada?—A. It might not.

[Mr. George Gonthier.]

Mr. KENNEDY: I have not any more questions to ask to-day, Mr. Chairman, but I may have something to ask to-morrow. I do not know that I have exhausted the evidence. In view of some of the legal difficulties which I have, I would like to move that motion that I placed in your hands, Mr. Chairman, suggesting that the Deputy Minister of Justice be called to give evidence on some of these points of law.

The CHAIRMAN: In order to proceed regularly, do you want to move this before you are through with the Auditor General, gentlemen?

Mr. KENNEDY: Well, I do not know that I have any more evidence.

The CHAIRMAN: Then, I understand you are through now.

Mr. KENNEDY: I think I am, Mr. Chairman.

Hon. Mr. CANNON: You said a moment ago, that you had some further questions to put to Mr. Gonthier, and that you were not ready to put them to-day.

Mr. KENNEDY: So far as I know I may have.

Hon. Mr. CANNON: Could you indicate to the Committee the character of the evidence?

Mr. KENNEDY: No, as far as I am concerned it would be just to clear up something that I may not have made clear, or have brought out clearly in his answers to-day.

Hon. Mr. LAPOINTE: I do not think you should ask to examine the Deputy Minister of Justice on questions of law. I think you had better formulate the various points on which you want legal opinion. It is not the practice to obtain evidence in that way.

Mr. KENNEDY: I should think it would be, in regard to the responsibility of the Chief Electoral Officer in matters such as this. The Deputy Minister has appeared before other committees dealing with Industrial and International Relations.

Hon. Mr. LAPOINTE: Did you tell him first why you summoned him and on what questions?

Mr. KENNEDY: I am quite willing to do that, but I am not prepared to do it at the moment. I am prepared to discuss it with him or put it in writing.

Hon. Mr. LAPOINTE: If you will do that, I think it would be the usual practice.

Mr. BELL (Hamilton): I understand that what Mr. Kennedy wants is not in proof of the statutes but in proof of certain constructions of certain clauses.

Hon. Mr. LAPOINTE: Quite so; that is why I say he should be told before coming here in order that he may look up his authorities.

Mr. KELLNER: The Chief Electoral Officer unquestionably would apply to him for rulings on this Election Act. Therefore, he is probably familiar with the whole law on this subject and his construction of the Act. Would there be any use in suggesting that Mr. O. M. Biggar be summoned?

Hon. Mr. LAPOINTE: I think he represents the province of Alberta before the Privy Council at the present time; so that he is in England.

The CHAIRMAN: Have you any further questions from Mr. Gonthier?

Mr. KELLNER: I would like to run through the evidence before I answer that.

The CHAIRMAN: In that case you will be in a position to tell us whether or not you desire Mr. Gonthier to be here again. If you will kindly remember that you may be required to be here at the next meeting, Mr. Gonthier.

Hon. Mr. CANNON: Mr. Gonthier is a very busy man and if he remains at our disposal, he will be told when to come.

[Mr. George Gonthier.]

The WITNESS: I was asked to produce this statement. The balance of the detailed statement of the election accounts.

The CHAIRMAN: The statement will be received and filed as an exhibit with the record. It need not be transcribed.

It is suggested that the next meeting be held on next Tuesday. Is it agreeable that the Committee meet next Tuesday?

Carried.

The witness retired.

The Committee adjourned until Tuesday, May 29, at 11 o'clock.

COMMITTEE ROOM 425,
HOUSE OF COMMONS,

May 29, 1928.

The Select Standing Committee on Privileges and Elections met at 11 o'clock a.m., the Chairman, Mr. J. J. Denis, (Joliette) presiding.

The CHAIRMAN: Mr. Kellner, do you want to recall Mr. Castonguay?

Mr. KELLNER: I want to ask a question or two of the Auditor General first. It will take just a minute or two. We had a couple of documents to be filed, one by the Auditor General and one by the Chief Electoral Officer.

The CHAIRMAN: A couple of what?

Mr. KELLNER: A couple of documents, one from the Auditor General and one from the Chief Electoral Officer. If the Chief Electoral Officer would file the return we asked for the other day, I would like to have it; he has it right here.

Mr. CASTONGUAY: The first part of the correspondence was filed the other day.

GEORGE GONTHIER recalled.

By Mr. Kellner:

Q. Do you file one too, Mr. Gonthier?—A. I file this, (indicating) which is supplementary to return 114.

Q. Have you got one under date of June 8th, from Thomas J. Cardwell?—A. Do you mean the account?

Q. No; in your return there is a letter from Mr. Cardwell; it should be in the return you filed this morning?—A. In that return there are only the figures.

Q. In order not to take up any more time, we will just use this one. There is a letter in this file, dated June 8th, under the Dominion Election Act, addressed to the returning officer, reading as follows: (Reading)

DEAR SIR,—I have not so far heard anything about the payment for my services as Registrar at the Reita Lake Poll No. 220 in the Athabaska constituency in the last Federal election.

I would appreciate hearing from you as to when I may expect to receive payment for my services as Registrar of the above mentioned poll.

Yours truly,

(Sgd.) THOS. J. CARDWELL.

The next letter is one which Mr. Biggar wrote to Mr. Cardnell telling him that he had sent the account to you. Can you tell us if you paid that account?—A. Yes.

[Mr. George Gonthier.]

Q. Can you give us the date on which that was paid?—A. January 8, 1926.

Q. This was written on June 8, 1926?—A. We had paid it on January 8, 1926.

Q. Did you pay it after it was written on June 8, 1926?—A. No.

Q. You did not make any payment then?—A. No.

Mr. KELLNER: Mr. Chairman, I just simply bring that to the attention of the Committee, because there is one individual whom Judge Clarke says does not exist. Someone had already been paid for the services supposed to have been rendered, and on June 8, he sent another application for money for the same poll. It is a case of unmitigated gall, which I think should be called to the attention of the Committee. That account had been paid, and there was no such person existing.

I think that is all that I have to ask the Auditor General this morning.

Witness retired.

The CHAIRMAN: I understand Mr. Edwards is not going to give evidence.

Mr. KELLNER: No.

The CHAIRMAN: In that case he will not be sworn; he is just giving a legal opinion.

W. STUART EDWARDS called.

By Mr. Kellner:

Q. Mr. Edwards, you have read Judge Clarke's report, I suppose?—A. Yes.

Q. In your opinion was W. R. Wilson in legal possession of the returning officer's stamp?—A. Well, as to that, I have nothing before me but the findings of the Commissioner. Basing my view upon his findings as to the facts, I would say that Mr. Wilson had the stamp in his possession irregularly. As I noticed that the Commissioner says that there was nothing wrongful about that except the fact that he had it in his possession, nothing wrongful was done with it. I might explain that in my view I think that provision in the Statute is a directory provision. I will put it in this way; there is a provision in the Statute which provides that anyone not being a returning officer who has the stamp in his possession is guilty of an offence, but I think that provision cannot be taken literally. It seems to me that what the Statute must mean is that if any one has the stamp in his possession without lawful excuse other than the returning officer, he is guilty of an offence, because the Act provides that the electoral officer has to have it in his possession, and clearly the returning officer in carrying out his duties would have to entrust the stamp to subordinates, in order to have the ballots marked. I understand from the instructions to the returning officers in the booklet which is issued to them by the Chief Electoral Officer, they are instructed that if it becomes necessary in any district to put on a large shift in order to do the stamping, that they should make arrangements to do that. So that I would agree with the conclusion of Mr. Justice Clarke that in the circumstances, Mr. Wilson having had the stamp given to him by the returning officer himself, and having made no improper use of it, it is not a case in which you can convict him of an offence.

Q. Aside from the possibilities of convicting him altogether, it is simply remembered that Mr. Wilson was in Edmonton, and the returning officer was in Lake la Biche, 150 miles away; do you think that that would not be a condition of which no one could approve; whether he made an improper use of it or not, he was not under the supervision in any way of the returning officer?—A. I think it is. In that respect I think there has been an irregularity, that is, the returning officer should have kept the stamp under his direct supervision and control.

[Mr. Stuart Edwards.]

Q. You have read the evidence in connection with the delivery of the ballots to W. R. Wilson, who, according to the evidence we have submitted to the Committee, was in control of Cross' Committee room. In your opinion, would that be a violation of the Act?—A. I have not seen the evidence bearing upon that.

Q. I have it here; it will take a little time to run over it, but I think the Committee will bear out the assertion that Mr. Wilson admitted that he was in control of Cross' Committee room, and I think the ballots were delivered to him. There is no mention made of it in Judge Clarke's report?—A. Who delivered the ballots?

Q. The printers.—A. I notice in the memorandum you gave me there is a question, "Would the Edmonton Printing and Publishing Company, Limited, as printers, be guilty of an offence for delivering these ballots to some one other than the returning officer?" Is that the episode to which you refer?

Q. Yes.—A. The Statute bearing upon it is subsection 5 of 50, which says that such printer shall, upon delivering the ballot papers to the returning officer, file in his hands an affidavit?—A. Yes; it is subsection 5 in the revision. It directs—

"They shall bear the name of the printer and such printer shall, upon delivering the ballot papers to the returning officer, file in his hands an affidavit setting forth the description of the ballot papers so printed by him,"——

Q. Before you answer, Mr. Edwards, let me give you this information, and I trust the Chief Electoral Officer will pay attention to it, because I am citing from memory; the affidavit was given to Mr. Wilson, not to the returning officer at all, in compliance with this section?—A. I have not the facts of the case, and I could not very well give an opinion as to whether there was an infraction of the Act, without knowing more about the facts. The Act evidently contemplates that the ballots shall be delivered to the returning officer, or to some one acting for him, under his direct supervision and control, I should think.

Hon. Mr. LAPOINTE: Do you say Mr. Justice Clarke did not refer to it at all?

Mr. KELLNER: He did not refer to it in his report.

Hon. Mr. LAPOINTE: Why refer to it here, then?

Mr. KELLNER: I think there are things here that were not referred to in that report, that should be considered by this committee. Judge Clarke may not have considered that a very important matter, but on the other hand, a lot of people do.

Hon. Mr. LAPOINTE: One would think that if Mr. Justice Clarke thought there was something wrong he would have reported it.

Mr. KELLNER: No, I think he considered the ballots in the same class as he did the official stamp. I think what he said about the official stamp was practically applicable to the ballots as well; he says he comes to that conclusion with considerable doubt, in his report. I think that doubt is equally applicable to the ballots.

Hon. Mr. LAPOINTE: He did not express any doubt as to any other particular ballot.

Mr. KELLNER: Of course, if he had not the stamp, he could not.

Hon. Mr. LAPOINTE: Are there not enough facts to prove, without trying to assume something?

Mr. KELLNER: There is no supposition there. He could not have done anything without the stamp. He got both stamp and ballots delivered to him.

[Mr. Stuart Edwards.]

WITNESS: There is one difference between the ballots and the stamp. There is a section in the Act which makes it an offence to have the stamp in his possession improperly. But this appears to be a directory provision for which no penalty is provided.

By Mr. Kellner:

Q. Yes. He could not have stamped the ballots if he did not have the stamp; there would be no object in delivering the ballots, would there, if he did not have the stamp?—A. Well, that has no bearing upon what I was saying. I was just pointing out the difference between the two functions. I am not dealing with the facts of this particular case, because I am not familiar with them.

Q. But still that is a logical conclusion to draw from them, is it not?—

A. You tell me that in this particular case the ballots were handed to Mr. Wilson, and the stamp was also handed to Mr. Wilson. That is a matter affecting this particular case, as to which I know nothing.

Q. That has been submitted to this committee, and is part of the evidence which has been taken. Of course if he did not give him the stamp he could not mark the ballots; you will agree with that?—A. He could not stamp the ballots without the stamp, that is clear.

Q. And it could not be used?

By Mr. Kennedy:

Q. I understand the question, it is, whether it is an offence to deliver them at the committee room instead of to the returning officer; I do not think there is any argument on that?—A. The Act directs that they should be delivered to the returning officer. There is no question about that.

By Mr. Kellner:

Q. And if any one is in illegal possession of the stamp, there is a very severe penalty attached to that act?—A. Well, there is a penalty.

Q. Five years, I think, is the maximum, and three years is the minimum?—

A. I think that is in section 51.

Q. It is in 51 (f), I think?—A. Yes; "for a term not exceeding three years, and not less than one year, with or without hard labour;" and if he "attempts to commit any offence specified in this section, shall be disqualified from voting at any election for a term of seven years thereafter and guilty of an indictable offence and liable, if he is a returning officer, election clerk, deputy returning officer, poll clerk or other officer engaged in the election."—

HON. MR. LAPOINTE: That is over-ridden by Judge Clarke, who says he could not find him guilty.

WITNESS: There is no breach of this particular section, as far as I can find.

MR. KELLNER: As far as I can recall, Judge Clarke's words are, that he found him not guilty with considerable doubt.

HON. MR. LAPOINTE: How can you send a man to jail after he has been acquitted?

MR. KELLNER: That is not why I am asking these questions at all. The point is, that if that is a legal way to function under the Act, I think everybody will agree that it should be amended. This is not making out a criminal case against anybody; we are trying to find out whether we are safe in operating under the Act as it is.

HON. MR. LAPOINTE: Do you not think the report of Judge Clarke is sufficient to entitle you to make any suggestions you wish?

MR. KELLNER: My suggestions are not always adopted. However, we will leave that where it is.

[Mr. Stuart Edwards.]

By Mr. Kellner:

Q. In your memorandum you have a question, "Of what use is section 50, subsection 1, unless a penalty clause is attached to it."—A. That does not appear to be a legal question, I should think. I do not myself understand just why any penalty would be attached to that section. The section says,

50. The ballot of each voter shall be a printed paper, in this Act called a ballot paper, on which the names of the candidates alphabetically arranged in the order of their surnames, shall be printed exactly as they are set out in the nomination paper; the ballot paper shall be provided with a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub, the whole as in Form No. 28.

Q. Have you the ballot papers that were filed?—A. I would not suppose that any one would commit a deliberate breach of that section. I do not know just what the purpose of making one ballot different from another would be.

Q. I am sure I cannot enlighten you upon that, but we will show you the ballots just in a minute, and we will see.

Mr. BELL (St. Antoine): I should like to ask a question or two of Mr. Kellner. In these questions to the Deputy Minister of Justice, is your object in asking them to find out if, under the present Act we can put the responsibility upon any particular persons or officers under the election law?

Mr. KELLNER: No. My intention in asking these questions of the Deputy Minister is to clear up some of the legal points, and to find out whether, if we were having an election again next year, the same thing would be likely to happen. It is in view of the necessity of amending the Act, if the Act does not already cover it.

Mr. BELL: Do you think this should come under the Minister of Justice's regime, I mean the election law, in regard to the Athabaska election, and has that department, do you think, failed in carrying out the punishment of any person under the law?

Hon. Mr. LAPOINTE: Mr. Kellner said he wanted somebody to explain the law, and chose the Deputy Minister of Justice.

Mr. BELL (St. Antoine): What I want to find out, Mr. Minister, is, in what way is the Department of Justice connected with the Athabaska election?

Hon. Mr. LAPOINTE: In no way, except that Mr. Kellner wants to have a legal man explain some of the provisions of the Election Act before the Committee, and he thought the Deputy Minister of Justice, being a law officer of the Crown, would be the proper man to summon for that purpose.

Mr. BELL: I understood from Mr. Edwards' answers that he could hardly give us the law upon it without knowing the facts, and I understood Mr. Edwards to state that he was not quite familiar with the facts.

WITNESS: No. I have read the Commissioner's report, but I have not digested the evidence with any view of reviewing the findings of the Commissioner on the facts.

Mr. BELL: It seems to me that in examining you, without knowing the facts, and asking you to interpret the law without having the facts before us, we are certainly not getting very far, in the Committee.

Mr. KELLNER: I submit the Election Act will have to be interpreted by some one, and I presume as easy a way as you can arrive at it is to show violations of it and ask the Deputy Minister for his interpretation of them.

By Mr. Kellner:

Q. In connection with section 50, subsection 1, you will notice the difference in the spelling on some of the ballots here?—A. Yes.

[Mr. Stuart Edwards.]

Q. The section says:—

50. The ballot of each voter shall be a printed paper, in this Act called a ballot paper, on which the names of the candidates alphabetically arranged in the order of their surnames, shall be printed exactly as they are set out in the nomination paper;

Of course, that is not done in some of these ballots?—A. No, but as I have said before, any legal question involving the question of whether you wish to attach a penalty provision to this, is a matter of policy, for Parliament.

Q. I thought there might be a covering clause?—A. I cannot find any specific penalty for a breach of that provision.

Q. Section 42, subsection 2, would be in the same category, would it not?—A. Yes, precisely.

Q. Then take poll No. 169, in which the poll book was lost; I think that is in section 66 (9). That cannot be the one either. It is the one which states that the Deputy Returning Officer shall not be paid unless the papers are all in their proper envelopes?—A. There is no subsection 9 to section 66.

Q. I was referring to the old Act, I guess?—A. There is a subsection 9 to section 67. Section 67, subsection 10, is perhaps the one.

Q. That is the one, subsection 10 of section 67?—A. Yes, that subsection states: (67-10).

If any Deputy Returning Officer shall omit to enclose within the ballot box in the proper envelopes provided for that purpose, the list of voters or any statement, certificate or other document, in contravention or non-observance of the provisions of this Act, he shall, in addition to any other punishment or consequences to which he may be liable, forfeit all right to payment for, and he shall not be paid for, his services as such officer or be paid or repaid his disbursements made.

Mr. KELLNER: In that particular poll the poll book disappeared. That information was generally known, because the returns from that poll had been ordered forwarded to the Clerk of the Court in Edmonton on the Judge's order, and the officers of the poll were paid. I think that is a violation of the section, to pay them.

Hon. Mr. LAPOINTE: But, Mr. Kellner, you say, "that was generally known." You know it because you were there and were interested in all matters concerning that election; but I did not know it, and I do not think anyone else here knew it until the report of Mr. Justice Clarke came in.

Mr. KELLNER: The returning officer or the Chief Electoral Officer knew it.

Hon. Mr. LAPOINTE: That may be so, but that is not "generally known."

Mr. KELLNER: It was published in the papers.

Hon. Mr. LAPOINTE: Not in eastern Canada here, was it?

Mr. KELLNER: There can be no question but that the Auditor General's Department and the Chief Electoral Officer's Department knew it, because they had both been corresponded with about it, and in fact had been requested to try to recover the money.

Hon. Mr. LAPOINTE: I do not see how we can know that they did know that.

Mr. KELLNER: If necessary we can produce the evidence to show that. I think they both admitted it, but I am not sure on that point. Not only I myself but the Clerk of the Court had notified the Chief Electoral Officer that that document was missing and he in turn had telegraphed to the returning officer to locate it and the returning officer had replied that he could not.

Hon. Mr. CANNON: That is the Chief Electoral Officer was trying to ascertain the facts?

[Mr. Stuart Edwards.]

Mr. KELLNER: He was trying to locate the poll book.

Mr. MACDONALD (Cape Breton South): But in this case the Deputy Returning Officer returned that book to the returning officer. Is it not possible that that book might have disappeared out of the box while in the hands of the returning officer, and still this man would be entitled to be paid?

Mr. KELLNER: Under the section of the Act he would still not be entitled to be paid.

Mr. MACDONALD: If it was not his fault, if he enclosed it in the box and then the returning officer abstracted it from the box, should the deputy returning officer be mulcted in his payment?

Mr. KELLNER: Mr. Edwards is the witness, put your question to him.

The WITNESS: If the Committee want my opinion on that, speaking generally—I cannot speak with regard to any particular case—I should think the duty of the paying officers is to take the statute as they find it, examine the accounts as they come in, audit them properly according to such information as they have, and if the accounts appear to be properly rendered and vouched, to pay them.

Mr. MACDONALD: Would the payment be made after the information had reached some officer who could stop payment?

Mr. KELLNER: Payment was made I think late in June; after a man, not more than ten miles distant from the returning officer, was serving a term of from two to five years in the penitentiary.

The WITNESS: You see, Mr. Kellner, in performing their duties in the Department, officials do not read the newspapers with the idea of finding in them a guidance as to the performance of their duties, and I should think that when a specific complaint was made, say to the Auditor General who paid the account, that something had gone wrong, it would be his duty to hold up the payment of that account. That would result in a dispute between the applicant for payment and the Auditor General, and I think under the Act it is provided that in that case the Auditor General may refer the matter to the Chief Electoral Officer. If the Chief Electoral Officer decides upon that reference that the account may properly be paid, the Auditor General under the statute has a perfect justification for paying the account. If the Chief Electoral Officer decides that it should not be paid, then other machinery is provided for inquiry into the matter and determining what shall be done.

By Mr. Kellner:

Q. Would you agree with this, that once that poll book is lost, that account should not be paid until the poll book is recovered?—A. The point I am making is, it depends on whether the officer paying the account had any official notice.

Q. I have already stated that several times, that they had notice of it.

Hon. Mr. LAPOINTE: In what way?

Mr. KELLNER: Well, the first notice they had of it was a telegram from the Clerk of the Court in Edmonton asking the Chief Electoral Officer to produce the book, that it was not in the return. There was considerable correspondence carried on in connection with it, a good portion of it is on file here. If not we can very easily put it on.

Hon. Mr. LAPOINTE: You think that is sufficient notice to justify the Auditor General to refuse payment of the account, when you say there was a telegram from the Clerk of the Court to produce the book.

Mr. KELLNER: The Chief Electoral Officer had wired the returning officer and told him to produce that book. He wired back that he could not find it. Now, it is not a matter of my opinion or anyone else's opinion; it is a matter

[Mr. Stuart Edwards.]

of violation of the statutes. The statute says he must not be paid unless the records of the poll are in the proper envelopes. That is not the case here because there was no record at all.

The WITNESS: Where is that provision, Mr. Kellner?

Mr. KELLNER: You read it just a moment ago.

The WITNESS: No, the section to which you directed my attention was subsection 10 of section 67. Oh, I see; it does say: "shall forfeit all right to payment for, and shall not be paid for his services." Yes, I beg your pardon, that is right.

By Mr. Kellner:

Q. Then in view of the disclosure, and if there is any doubt about it, we can very easily submit the evidence that that all took place, would you agree with the statement then that there was no authority to pay that account?—A. Well, Mr. Kellner, it is very unsatisfactory to be asked legal advice upon hypothetical questions. The statute is there and speaks for itself. If you are in doubt as to what the statute means and I can give you any help in interpreting the statute generally, I would be very glad to do so, but I really do not think I can be of any assistance to the Committee if I am to try to pass judgment on the guilt, or lack of guilt of individuals in hypothetical cases.

Mr. BELL (St. Antoine): That is the point to which I drew attention. We have here the Deputy Minister. To ask him hypothetical questions without reading the facts to him does not seem to me effective. If we take the Election Act as it stands to-day, that is under the Department of the Chief Electoral Officer and that is a separate department. Now, if there is an election protest, you are not the one, Mr. Deputy Minister, that really rules on the law of the case. It is the judge trying the case, is it not?

The WITNESS: Yes.

By Mr. Bell (St. Antoine):

Q. Suppose this question of payment is submitted to you by the Chief Electoral Officer, is your finding or whatever you advise him, the final decision? Must he follow your instructions or would he be governed by the judge who knows the facts and who gives the decision? I cannot see the use of asking your interpretation of the law if you are not the proper officer to interpret the law in election cases?—A. No, under the statute there is no provision that the Department of Justice is to decide any question of law or practice that may arise.

By Mr. Kellner:

Q. He has to decide in this particular Act?—A. I think the function is pretty completely vested in the Chief Electoral Officer. I am speaking of the administrative questions that arise in the conduct of an election. If a question of doubt or interpretation in the Act arises, the Chief Electoral Officer must determine that during the progress of the election and issue instructions as to what is to be done. If he desires to consult me, as he would any other counsel, there is nothing in the law to prevent him from doing so, but I do not think he is bound to follow my advice.

By Mr. Bell (St. Antoine):

Q. But if a judge trying the case orders him not to pay, would he be governed by him?—A. I was speaking generally about the functions. In the case you put he would be bound, of course, by the findings of the commissioner, or of the court in an election petition.

[Mr. Stuart Edwards.]

By Hon. Mr. Cannon:

Q. Mr. Edwards, the Chief Electoral Officer, under the Act, is not responsible to anyone except to Parliament?—A. No.

Q. He is not an official of the Government?—A. No.

By Mr. Kennedy:

Q. In this case, if the Chief Electoral Officer is stuck in a matter of law, where is he to go in the matter of advice? The Chief Electoral Officer to-day is not a lawyer; there must be some Dominion Government official who can be and is responsible to interpret this law?—A. I think the duty is that of the Chief Electoral Officer to see to the proper conduct of elections in so far as the machinery under his control operates. If he requires legal advice, I think he is free to get his legal advice where he desires.

By the Chairman:

Q. But he is not bound to do so?—A. No.

Q. And he may rely upon himself alone to decide all these questions, if he wishes?—A. Yes.

Hon. Mr. CANNON: The idea of the Act is to make that officer absolutely independent of the Government. The Government has nothing to do with him. He is responsible to Parliament. He is not an officer of any department of the Government.

Mr. KENNEDY: That was in the day of Mr. O. M. Biggar.

Hon. Mr. CANNON: This Athabaska election took place when Mr. Biggar was Chief Electoral Officer. No minister has any instructions to give him, and he has no instructions to receive from any minister.

Hon. Mr. LAPOINTE: Parliament would have the right to put that under the Government, if the members so decide.

By Mr. Kellner:

Q. Anything that took place in that particular poll, namely, that the poll book was lost, and then the Chief Electoral Officer and the Auditor General both knew it—then my question is: do you consider that account should have been paid under those conditions?—A. Well, with respect, I think I should object to answering a question of that kind.

Q. Then, we will go down to the next question in regard to certificates of Judge Clarke. You have the questions there before you. Would the certificates issued by Judge Clarke bar actions being taken under the Criminal Code against such officials as committed forgery of cheques: Mrs. Emma A. Bowtell, page 13 of Judge Clarke's report, and W. E. Proctor, page 15 of Judge Clarke's report, or against those who made application for payment, or accepted payment of an account for which service was not rendered in compliance with the Act, after the applicant had given evidence before Judge Clarke? What is your opinion on that?—A. I do not think the certificate of indemnity would bar a prosecution for a Criminal Code offence; but in conducting any prosecution based upon evidence which was adduced before the Commissioner—or rather, I should say you could not conduct your criminal prosecution upon the evidence taken by the Commissioner, you would have to make out a case independent of that; and the defendant in the case would not be a compellable witness.

By Mr. MacDonald (Cape Breton South):

Q. And you could not use his evidence in the trial?—A. No, except in a prosecution for perjury.

Q. Could you even do it there?

[Mr. Stuart Edwards.]

Mr. KELLNER: If he perjured himself in giving evidence, he could be prosecuted.

Mr. MACDONALD: Yes, that is a different thing altogether.

Hon. Mr. CANNON: That is the only exception.

The WITNESS: Section 26 of the Corrupt Practices Inquiries Act provides that no statement made by any person in answer to any question put by the Commissioner shall, except in the case of an indictment for perjury, be admissible in evidence in any legal proceedings.

By Mr. MacDonald:

Q. The only penalty there would be this: take one of those witnesses who have come before Judge Clarke and given evidence and he admits his own crime and it is a crime against the Election Act. Can that man be prosecuted? After the judge has given him a certificate, can he be prosecuted before another judge on other evidence except his own?—A. Not for an election offence, no.

By Mr. Kellner:

Q. But the signing of those cheques is not an election offence. That is a different matter.—A. It is a debatable question as to whether that is an election offence or not. My personal view is that it is not, that the forgery of an endorsement on a cheque is a criminal code offence, whether it was done in connection with an election or not. I mean, it is forgery whether done in connection with an election or not, and it is not an election offence.

Q. Then, the second part of the question: "those that accept payment or make application for payment after the investigation has been heard." All the evidence has been given and later they accept payment or make application for payment.—A. I do not just understand the question.

Q. If an officer appeared before Judge Clarke and pleaded guilty to certain charges, and after he has given that evidence he writes to the Auditor General and asks to be paid for officiating at some poll in which irregularities had admittedly been carried out; is that not an offence there?—A. It would only be an offence if it were done under circumstances that would amount to a false pretense.

By Mr. MacDonald (Cape Breton South):

Q. But not under the Election Act; it would be under the Criminal Code?—A. Yes.

By Mr. Kellner:

Q. It could not be done under other circumstance, could it?—A. Well, it gets back to the same old difficulty that you have to deal with each case separately. You can not deal with cases in the mass. Under the Election Act, as I understand it, payment is made according to a tariff. In the case of a man making up a voters' list, he is paid by the number of names on the list, and if he makes up a list with a certain number of names on it, he is entitled to be paid for that, regardless of whether he committed an offence or not. That is my judgment of it.

Q. And he gives evidence and states that he forged the list?—A. If he forged the complete list he would be entitled to nothing because he had never made a list. But if he made a list of two thousand names and incorporated two hundred fictitious names, there was a list and there was an election and he had done the work; nobody else had done it. Then, my view would be that he would be paid for the two thousand names that he placed there legally, and he would not be paid for those he had placed illegally, and he would be punished for his crimes independently of that.

Q. Even though he intentionally forged that list?—A. A portion of it. That is subject to that section that you directed my attention to. I want to refer to that again, Section 67, sub-section 10.

By Mr. Bell (St. Antoine):

Q. What punishment can he get for adding names?—A. That is provided for in the penalty provisions of the Election Act. That is an election offence for which he may be punished. If you would like to get the exact section, I think I can find it for you. No, sub-section 10 of Section 67 is limited to Deputy Returning Officers.

By Mr. Kellner:

Q. Well, of course, this offence does not come under the Election Act, that is very apparent. It is a case of trying to get money under false pretenses and I think it would come under the Criminal Code?—A. Is it not an election offence to place fictitious names upon the voters' list?

Q. I do not think so. I do not recall having noticed that decision?—A. I suppose we need not take up time with that. I would have to look that up. I was under the impression that that was an offence, but if not, then your question seems to follow, if there was no offence in what he did.

Q. Under the Election Act, but surely there is an offence under the Criminal Code.

By the Chairman:

Q. Would that not be an offence under the general terms of the Act that states that election officers must do their duty according to certain rules, and if they depart from those rules and fail to do their duty—it is a very plain rule that no fictitious names can be placed on the voters' lists. For instance, the Act says that the deputy returning officers will prepare lists of voters. That implies, I suppose, that only those voters who have the right to vote, and not fictitious voters—shall have their names placed on the list. If he prepares a list of fictitious voters is that not in contravention of that section of the Act?—A. It would be a breach of the Act but the question is whether it would constitute an offence under that Act. I was under the impression that to add fictitious names to a voters' list was an offence under the Election Act, but it may be that you are dependent upon the Criminal Code for that.

By Hon. Mr. Cannon:

Q. Do you not think, Mr. Edwards, that subsection 32 of section 11 affects that? Is not the registrar supposed to make the declaration as to the accuracy of his lists?—A. What section is it?

Q. The last paragraph of section 32. Any man who falsely signs any declaration that he uses for the purpose of procuring the registration of voters under this Act.

Mr. MACDONALD (Cape Breton South): That is to get the names on the list.

Hon. Mr. CANNON: No, there is another clause. If a man applies to the registrar falsely, there is a penalty; but at the end of that section, paragraph 11 covers the statement which is to be made in order to establish that the list is correct, whoever makes a false statement in connection with that list is subject to a penalty under sub-paragraph 11.

Mr. MACDONALD: Is that not if the declaration is used for the registration of the voter?

Hon. Mr. CANNON: For the purpose of procuring the registration of voters under this Act, certifying or declaration that such declaration is made before him.

[Mr. Stuart Edwards.]

Mr. BELL (St. Antoine): How could he prove that he had made a false statement?—A. A dozen men may come up and give false names.

Hon. Mr. CANNON: We are dealing with a case of an official who apparently drew up a list containing fictitious names and no one made application to be registered.

Mr. BELL (St. Antoine): How would the case be proved against him? He says that they are fictitious names, but the Act says who certifies to the list. It would have to be proved that he knew the names were false.

Mr. KELLNER: Are you through with that, Mr. Cannon?

Hon. Mr. CANNON: Yes, Mr. Kellner.

By Mr. Kellner:

Q. In order to make my question clear, would you look at poll No. 222 on page 4 of Judge Clarke's report:

I find that Peter Peterson, as Registrar, was guilty of wilful misfeasance by certifying a list not prepared by him, and wilful omission to perform the duties of a Registrar required by the Dominion Elections Act.

There are several other registrars in the report, of a similar character. After that evidence had been given one of them sent a letter to the Auditor General requesting payment for preparing that list. Is that an offence under the Election Act or any other Act?—A. Are you taking the case of Peter Peterson?

Q. I am not sure whether he sent in a request or not. I do know some of them did. I have not those papers before me this morning.—A. In the case of Peter Peterson, he having been found by the Commission to be guilty of wilful misfeasance in an office, and he thereafter applies to the Auditor General for payment upon the basis of his innocence, and the Auditor is misled into paying the account, not knowing the true circumstances, I would consider that to amount to false pretences under the Criminal Code.

Q. And whether the Auditor General paid it or not, the application is there and it is still an offence anyway?—A. Well, there might be an attempt. I am not sufficiently familiar with the law as to false pretences to say offhand what the law would be in that. I think the gist of the false pretences provision of the Act is that someone shall have been led to change his position, to lose money or property by virtue of the false pretence. If it merely amounted to an attempt, I would not like to say offhand what proceedings would be taken.

Q. In view of the stand you take on some of these others, we will go down to section 78 there in the memorandum. Would it be your opinion that the Auditor General can accept or refuse any recommendation of the Chief Electoral Officer and if dispute entails a legal right, such as the compiling of lists with names other than qualified voters, such authority to pay could only issue from the Treasury Board? If the dispute entailed the amount of the claim, authority to pay would be given by the Secretary of State. In other words, perhaps we will get as far if you give us your general interpretation of section 78 of the Act?—A. I think I have already given the Committee my view with regard to that. I think the provisions of section 78 are clear. They provide in effect that the Auditor General shall, in accordance with the Act, tax and pay all election expense accounts; and any disagreement between the Auditor General and any claimant shall be referred to the Chief Electoral Officer and he shall either confirm the action of the Auditor General or if he disagrees, then if the question involves only the legal right of a person claiming payment to be paid at all, it shall be referred to and be finally resolved by the Treasury Board. Or if the question involves only the fairness of the amount payable to any person with relation to the services, or the material supplied, it shall be referred to and shall be finally resolved by the Secretary of State.

[Mr. Stuart Edwards.]

Q. Has the Auditor General the privilege of going to either the Secretary of State or the Treasury Board without first going to the Chief Electoral Officer?
A. I should think not.

Mr. KELLNER: I think that is one section that should be amended as well.

Hon. Mr. LAPOINTE: I am not sure, Mr. Kellner. The purpose of the Act is to take away the control of elections from the Government and put it under independent officers responsible to Parliament only. The Chief Electoral Officer is one of them. The Auditor General is another. Those officers are quite independent of the Government. I do not know, but I should think the party in opposition ought to be in favour of that feature of the Election Act. I know I may come back to opposition one day and I would rather have the Act as it is than take the control away from independent officers and put it under Government officers.

Mr. MACDONALD (Cape Breton South): The only difficulty there, Mr. Minister, is, that after all the appointment of the returning officer and the deputy returning officers is really in the hands of the Government, and so far as I have been able to learn that is where the whole trouble arises, and is where it arose in Athabaska. If we can solve that difficulty, I think we would have taken away the whole ground work of this trouble.

Hon. Mr. LAPOINTE: That is to put the appointment of returning officers in each district on a fixed basis?

Mr. MACDONALD: Yes.

Hon. Mr. LAPOINTE: That might go a long way.

Mr. BELL (St. Antoine): Do you not think that another difficulty is placing the responsibility? Here we have an election in Athabaska, and it might be somewhere else to-morrow. The trouble is to find out who is responsible. I think as has been said, if we could place the responsibility we would go a long way towards solving a lot of these difficulties. As I understand it, the Department of Justice has nothing to do with a case such as Athabaska; they are not responsible to take any action even if they know that fraud has occurred or that other provisions of the Act have been violated. They do not on their own volition take any action, do they?

Hon. Mr. LAPOINTE: The statute provides for that. When there is a report such as that of Mr. Justice Clarke recommending that proceedings should be taken against certain parties, then the Department of Justice transmits the evidence to the Attorney General; or, the Secretary of State rather, transfers the report and the evidence to the Attorney General of the province, and there the proceedings are instituted. And if proceedings are instituted then the Department of Justice can appoint counsel to help the provincial authorities to prosecute the case.

By Mr. Lapointe:

Q. Is that not so, Mr. Edwards?—A. I am not sure about the latter provision as to the appointment of counsel.

Mr. MACDONALD (Cape Breton South): They may appoint counsel, I think. I do not think they are obliged to.

Hon. Mr. CANNON: By section 32 of the Corrupt Practices Act, they may appoint counsel to assist in any prosecution instituted by the legal authorities with regard to the administration of Justice.

Mr. BELL (St. Antoine): Mr. Cannon, can you give the committee a brief resume of what action is taken in such cases as this Athabaska case? We have the Chief Electoral Officer who is independent of the Government; then we have the legal authorities who can bring the action to trial in the particular constituency; we had Judge Clarke and he made recommendations. And then

[Mr. Stuart Edwards.]

the matter can come before Parliament and go to the Department of Justice and they can refer it back to the provincial authorities. Is this not a very cumbersome way of dealing with it?

Hon. Mr. LAPOINTE: This is the first time this Act has been put to any use. This election is a precedent and as you say it does not seem to work very effectively.

Mr. BELL (St. Antoine): I might say, Mr. Minister, that we had to go to the Supreme Court for a final decision, but that was under a local petition.

Hon. Mr. CANNON: That was under another Act.

Mr. BELL: Yes, the Controverted Elections Act.

By Mr. Kellner:

Q. Mr. Edwards, just take that last question. Would it not be desirable to make provision in the Election Act that all election officials should be of the full age of 21? I submit that more to draw the attention of the committee at the present time?—A. That is a matter of policy, I should think.

Q. Do you not think a position of this kind should at least require that anyone filling it should be of the full age of 21?—A. Are you limiting that to a particular class of officers?

Q. The D.R.O's and the registrars and such officers.—A. I see no objection to it, but that is not a matter of law. It is a matter of policy for Parliament to decide.

Q. Now, there is a question or two I want to ask you in connection with the Controverted Elections Act or the Corrupt Practices Act. I did not give you any notice of it, but I imagine you have the Act pretty well in your mind. The first was in connection with the correspondence, which I think your Department received from the late Judge Beck, to the effect that he did not think a judge of the Supreme Court would have the authority to swear him in when he was appointed a commissioner. Do you think there is any reasonable doubt as to that authority?—A. I have never had occasion to consider that.

Q. In regard to the deposit of one thousand dollars by anyone submitting a petition under that Act, does it seem necessary that that deposit should be of so large an amount? Would not five hundred dollars be sufficient protection?—A. That again is all in the field of policy. Election law is something quite different from any other law, and the policy as I understand it up to the present time has been to keep the ordinary civil servant out of election matters and to place the enforcement of the Act upon the independent commissioner outside any partisan influence, and also to give the private individual the right to prosecute, but subject to such provisions as will ensure prosecutions only being launched in proper cases. I suppose these provisions are put in to ensure that before any private individual in an election matter, which is the present matter, starts a prosecution, he shall give evidence of bona fides and good faith and indicate his intention to carry on the prosecution to a completion. That is what I understand the scheme of the Act is. No power is given to any Dominion Government officer to prosecute. If you did that you would bring him in to the realm of politics.

Q. There is no such suggestion. What I ask the question for is to point out that there is no expense entailed upon the Department, so why the high deposit of one thousand dollars?

The CHAIRMAN: You want the Corrupt Practices Act amended by reducing the deposit of one thousand dollars to five hundred dollars.

Mr. KELLNER: I am not offering an amendment. I am asking the Deputy Minister his opinion as to whether it might not be reduced.

[Mr. Stuart Edwards.]

The CHAIRMAN: That is not a question of law at all; it is a question of policy. You might as well ask him whether it would not be better for candidates to make a deposit of five hundred dollars instead of two hundred dollars. It is a matter of policy.

Mr. KELLNER: All right. I am through with the witness.

By Mr. Kennedy:

Q. I have a few questions, Mr. Chairman. You have my letter there, Mr. Edwards?—A. Yes, I have it.

Q. The first question I have is, what is the scope of section 18 of the Dominion Elections Act, subsection 2B? Is the Chief Electoral Officer responsible for checking up non-compliance with the provisions of this Act is a general way or are his duties confined to checking up the election officers throughout every election?—A. I think, Mr. Kennedy, that the provisions are clear. Section 18 provides that the Chief Electoral Officer shall—

(a) Throughout every election properly direct all returning officers and, in case of incompetency or neglect of duty on the part of any of them, recommend his removal and the appointment of another in his stead.

Then we come to paragraph (b), the one you have in mind. He shall:

exercise general direction and supervision over the administrative conduct of elections with a view to ensuring the fairness and impartiality of all election officers and compliances with the provisions of this Act.

Answering your question, I should think that his duties are limited to those stated in the statute; that is, the administrative conduct of elections. He would have control over those functioning under him, such officials as are subject to his directions by other provisions of the Act. The section does not in itself give him any power he does not otherwise possess, except that he is enjoined to see to it that so far as the election machinery is concerned there shall be impartiality and fairness.

Mr. BELL (St. Antoine): When is an election officer incompetent? Mr. Kennedy asked the question about checking up. Now, the Chief Electoral Officer can refuse to appoint a man who is incompetent. Is that after he starts to be a deputy returning officer or before or when? Suppose there was a complaint made that a man was not competent, would he have to investigate that? Is that what you mean, Mr. Kennedy, by checking up?

Mr. KENNEDY: Yes.

The WITNESS: Well, Mr. Bell, Mr. Kennedy did not ask me a question specifically under (a). Then (b), exercise general direction and supervision over the administrative conduct of elections with a view to ensuring the fairness and impartiality of all election officers. It was that paragraph (b) I was referring to. The section that you are mentioning is paragraph (a).

By Mr. Bell (St. Antoine):

Q. I would like to ask you a question under (a) then. What would be your opinion on that? Suppose the Deputy Returning Officer is appointed and complaints are made that his appointment is not satisfactory to the opposite party; has the Chief Electoral Officer power to entertain that complaint and to dismiss him, or not?—A. I would think that it is his duty to consider the representations and if he himself concludes that the officer is incompetent then he would recommend his removal and appoint another in his stead. He has no power beyond recommendation.

Q. That would be beyond the scope then of any suggestion from any other department, if the Minister says it rests entirely with him?

[Mr. Stuart Edwards.]

Hon. Mr. CANNON: I had this case referred. Mr. Bell, at the last election. The deputy returning officer in one of the constituencies of our district presided over the convention to choose the candidates, after he had been appointed deputy returning officer. The fact was brought to my knowledge and I wired the Chief Electoral Officer to ask him to remove him. I would understand that that was evidence that he was incompetent. No action was taken.

Mr. BELL (St. Antoine): It might be evidence that he was competent.

Hon. Mr. CANNON: Yes. Now, whether he has that authority under section (a) is a question.

Mr. BELL: I had a similar case, Mr. Solicitor General. There were two appointed. The Liberal organization thought there should be two officers for registration. That was opposed. We abided by the ruling of the Chief Electoral Officer. I presume there was no appeal from that.

Hon. Mr. LAPOINTE: Did he rule that there might be two?

Mr. BELL: No, he ruled that there should be one. I am trying to ascertain what his powers are.

Hon. Mr. CANNON: I do not think that there is any appeal from him.

The CHAIRMAN: According to the Act there is no appeal from him during the election, his authority is supreme.

By Mr. Kennedy:

Q. What would be the responsibility of the Chief Electoral Officer, if any, if he had knowledge of violation of section 9, subsection 2, or section 10, or any of the other provisions as to corrupt practices or indictable offences created by the Dominion Elections Act? You may not be able to answer that all at once, but take one at a time, if you wish.—A. With regard to section 9, I do not think he would have any responsibility.

Q. He would have no responsibility in that case?—A. No.

Q. In case of a violation of Section 10. Would he have any responsibility there?—A. I think not.

Q. That is as to foreign canvassers, an indictable offence. Is there any officer or authority anywhere who is charged with the prosecution of offences of this sort as mentioned in 9 and 10 of the Dominion Elections Act?—A. I think these offences are made punishable by indictment or upon summary conviction, and the same machinery that is provided in the Criminal Code is open to anyone to prosecute. It may be that if a private individual undertook the prosecution, he would be subject to the other provisions of the Act about giving security and for responsibility for costs. There again, I would prefer not to give any general advice. The question of how far anyone can prosecute under any one of these circumstances would depend upon the circumstances of each case, I should think.

Q. Do you think it is reasonable to suppose that a private individual will, for the sake of the public welfare, undertake to lay information and prosecute infractions of the Dominion Elections Act? That is not a legal question, but it seems to me to have a bearing.—A. My view about that is no better than that of anybody else.

Q. But you are an experienced lawyer.—A. I should think in ordinary human experience you would find that matters of that kind would be looked after by groups and that any group of the community, if they thought fit to prosecute, they could easily find an individual and furnish him with the sinews of war.

Q. Would it be possible to appoint someone to prosecute at the public expense violations of the Act?—A. That is a matter for Parliament. Parliament has the power to do it.

[Mr. Stuart Edwards.]

Q. The last question bears on the question of appointing returning officers. Is there anything in law to prevent judges of district courts or Supreme Court of a province from acting as a body in the selection of returning officers?—A. They have no power to do that now, because there is no enabling legislation. I think you want to put your question the other way, whether there is power in Parliament to legislate that the judges shall be vested with those powers and duties.

Q. I was coming to that, but you can answer it in your own way.—A. I do not know of any constitutional or other reasons why such legislation would not be effective if passed.

Hon. Mr. LAPOINTE: Do you refer to the returning officer there, or the deputies?

Mr. KENNEDY: The returning officer. That is all I have to ask.

By Mr. MacDonald (Cape Breton South):

Q. Mr. Edwards, turning again to paragraph (b) of section 18, must you really not divide that into two; the first having to do with the duties of the electoral officer from the time of the issue of the writ until the time of the return, until the candidate is returned as elected. It is not his duty then. From that out, is it not a matter for the courts, or someone else to take it up?—A. I think so, clearly.

Q. As a matter of fact, anything that takes place after the member is returned, must come from some other authority than the Electoral Officer?—A. With regard to the conduct of the election, yes. But with regard to payment of accounts and other matters of that kind provided for, he still has a duty to perform.

Q. The only duty he has is that he may withhold payment of any account by the Auditor General until the matter is straightened up?—A. His duty may be illustrated in this way: that when he receives a reference from the Auditor General regarding an account as to which a dispute exists between the Auditor General and the claimant, then he may decide whether he will authorize the Auditor General to pay that account or whether he will disagree with the Auditor General.

Q. That would necessitate an investigation on his part into the conduct of the officer in question?—A. Yes.

By Mr. Kellner:

Q. The Auditor General would not have the privilege of refusing payment unless the Chief Electoral Officer advised him not to pay.—A. I think, as I said previously, that if the Chief Electoral Officer instructs the Auditor General to make payment, that he is obliged, under the Act, to pay.

By Mr. Bell:

Q. Mr. Edwards, what action is the Department of Justice taking regarding this particular case now, since you have got Judge Clarke's report?—A. We have never been in a position to take any action upon the report. Under the Act, as has been pointed out, the report goes from the Commissioner to the Government, and if in the opinion of the Attorney General of Canada, the report shows that corrupt practices exist and that there is evidence upon which prosecutions may be based, it is his statutory duty to so certify to the Secretary of State, and it is thereupon the statutory duty of the Secretary of State to transfer that certificate with the report and the evidence to the Attorney General of the province. That was all done and in that way the report and the evidence was not before me for consideration as a departmental matter at all. Subsequently, the Committee, if I recollect aright, requested that a copy of the evidence be obtained, and I telegraphed the Attorney General of Alberta asking

[Mr. Stuart Edwards.]

him to return the evidence, which he did; and as soon as I got it I handed it over to the Committee. I have not yet had an opportunity to peruse the evidence. It was not directed to my attention until quite recently that there was any possibility that there were any offences with regard to which there might be a question as to whether any department of the Dominion Government ought to institute any prosecution.

Mr. MACDONALD (Cape Breton South): One other matter there. I think the prosecution must be started within a certain time, within one year. I think that time ought to be extended, because in this case it turns out that the time is a little short. And there should be a sort of interim report in order to get proceedings going at once. I think we should consider that.

Hon. Mr. LAPOINTE: Is that all?

Mr. KELLNER: Yes, Mr. Minister. And, Mr. Chairman, I think if there is an opportunity of getting to a report, I shall not offer any more evidence. There is quite a lot I could submit and that I had intended to at first, but it is getting late in the session. I think that will conclude the evidence that I wish to present to the Committee, but on that understanding I would like an undertaking that the Committee shall at least try to make a report during the present week.

The CHAIRMAN: It is a quarter to one. We might consider drafting a report at the next session of the Committee on Thursday, I suppose.

Mr. KENNEDY: Mr. Chairman, before we get to that point, is it cleared up regarding our power to report? You remember there was some little difference of opinion, at our first meeting, about our power, and our power to report to the House. Do you think now we have power?

The CHAIRMAN: Power to report to the House?

Mr. KENNEDY: Yes.

The CHAIRMAN: Not only power, but we are bound to report.

Mr. KELLNER: Is there a possibility that we could have a meeting on Thursday and consider our report?

The CHAIRMAN: Yes.

Mr. KELLNER: The Auditor General informs me that he wants to make a statement in connection with Poll No. 169.

The CHAIRMAN: Very well.

The witness retired.

GEORGE GONTHIER (Auditor General), re-called.

The WITNESS: I wish to produce certain statements that were requested from me at the previous meeting; accounts and copies of letters and correspondence between the Chief Electoral Officer and myself, or my Department.

First is a copy of the correspondence.

Second, a statement of the expenditure in the Athabaska election in 1926.

Third, the following accounts:

Jack Hayes, Taxicabs; D. A. Boychuk; J. A. Daigneau; Donald M. Harrold; O. Leroux; O. J. Nadeau; Frederick M. Robertson; Wm. Ralph Wilson.

In connection with the payment of Mr. Simoneau of an account, and in connection with Poll 169, I may say that the account was sent in to us dated the 29th of October, 1925, signed or certified to by J. A. Simoneau and F. P. Fisher. On December 28, the Chief Electoral Officer informed my office that

[Mr. George Gonthier.]

the deputy of poll No. 169 had failed to return his poll book, and the payment was withheld until we received a letter from the Chief Electoral Officer, on the 9th of March, in which he said:—

I have accordingly notified Mr. Kellner, to-day, that I propose to withdraw my request for any further postponement of payments, since it appears that to further indefinitely delay the payment of any accounts which appear to be regular and properly certified would be unfair to the election officers concerned.

It appear from Judge Clarke's report, and from the evidence, that the poll book had been destroyed by Isaac Gagnon. That was not the fault evidently, of Mr. Simoneau, as far as this report was concerned, and consequently I suppose that the Chief Electoral Officer was satisfied that this account, like the others, had to be paid, as Simoneau had performed the duties at that poll. I wish to give this explanation to the Committee.

By Mr. Kellner:

Q. I think it is very clear that the Act provides that where the poll book is lost, the payment must not be made. We went through the Section this morning, and also on other occasions. Where the poll book is lost, and is not recovered, the D. R. O. evidently did not put it in the right envelope, or it would have been in the box, and the Chief Electoral Officer would have got it. -

A. But I think that we took reasonable precautions before paying the account, and that was a matter that was more the concern of the Chief Electoral Officer than our's. Considering the mass of accounts that we had to deal with, all over the country, we took reasonable precautions.

Mr. KELLNER: We need not enlarge on that any more.

The CHAIRMAN: That is all the evidence then, Mr. Kellner?

Mr. KELLNER: Yes, that is all I will produce. I might say, Mr. Chairman, that when we first started to meet, I had intended to offer considerably more evidence, but I doubt the wisdom of doing so now; it would be largely repetition of what we have, although dealing with different cases. On thinking it over, I thought probably more might be accomplished by giving the Committee due time to submit a report to the House.

The CHAIRMAN: No doubt you are right in that. The Committee will stand adjourned until next Thursday at eleven o'clock.

Witness retired.

The Committee adjourned until Thursday, May 31, at 11 o'clock.

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